

**LABOR TRAFFICKING IN TROUBLED ECONOMIC
TIMES: PROTECTING AMERICAN JOBS AND
MIGRANT HUMAN RIGHTS**

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COOPERATION IN EUROPE**
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May 23, 2011

COMMISSION ON SECURITY AND COOPERATION IN EUROPE
WASHINGTON, DC

The hearing was held at 2 p.m. in 2172 Rayburn House Office Building, Washington, DC, Hon. Christopher H. Smith, Chairman, Commission on Security and Cooperation in Europe, presiding.

Commissioners present: Hon. Christopher H. Smith, Chairman, Commission on Security and Cooperation in Europe; Hon. Benjamin L. Cardin, Co-Chairman, Commission on Security and Cooperation in Europe; Hon. Joseph R. Pitts, Commissioner, Commission on Security and Cooperation in Europe; and Hon. Steve Cohen, Commissioner, Commission on Security and Cooperation in Europe.

Witnesses present: Ambassador Luis CdeBaca, Director, Office to Monitor and Combat Trafficking in Persons, U.S. Department of State; Gabriela D. Lemus, Labor Representative to the Senior Policy Operating Group on Trafficking in Persons, U.S. Department of Labor; Nancy A. Donaldson, Director, Washington Office of the International Labor Organization [ILO]; Neha Misra, Senior Specialist, Migration and Human Trafficking, Solidarity Center; and Julia Ormond, Founder and President, the Alliance to Stop Slavery and End Trafficking.

HON. CHRISTOPHER H. SMITH, CHAIRMAN, COMMISSION ON SECURITY AND COOPERATION IN EUROPE

Mr. SMITH. The Commission will come to order. And I want to welcome all of you to today's hearing, part of the Helsinki Commission's ongoing efforts to combat human trafficking in all of its aspects, which go back to June 1999 when I Chaired the first Commission hearing on human trafficking—really a tradition that continued under my good friend and colleague, Commissioner Cardin, when he was Chairman and now Co-Chair. This has been a bipartisan effort from the beginning, and it continues to this day.

Today our attention turns to labor trafficking, a modern-day form of slavery, exacerbated by the global economic downturn. As with all forms of trafficking, we must never lose sight of the victim, the truly human face of people caught up unwittingly in this multi-billion dollar criminal enterprise. Having just participated in a conference entitled, "Building Bridges of Freedom: Public-Private Part-

nerships to End Modern-Day Slavery,” I am acutely aware that in order to be successful in combating the scourge of human trafficking, we must strengthen the cooperation between governments and the private sector, particularly with regards to labor trafficking.

Each year, tens of thousands of victims are trafficked into the United States from throughout the world. The United States has been at the forefront of efforts to combat human trafficking in all of its forms, including labor trafficking, following adoption of the Trafficking Victims Protection Act of 2000.

Our government has undertaken the vast challenge of tracking slavery around the world. We have developed strategic reporting tools such as the Trafficking in Persons Report, the list of goods produced with child and forced labor, and the findings on the worst forms of child labor. And the world has taken notice.

I would note parenthetically, when I first introduced the Trafficking Victims Protection Act in 1998, a landmark bill that was signed into law 2 years later in 2000, the legislation was met with a wall of skepticism and outright opposition. People both inside and outside of government thought the bold new strategy that included sheltering, asylum and other protections for the victims, long jail sentences and asset confiscation for the traffickers and tough sanctions for governments that failed to meet minimum standards was merely a solution in search of a problem.

I vividly recall raising the trafficking issue at a gathering of parliamentarians meeting in St. Petersburg in Russia in 1999 and was met with a similar reaction. As a matter of fact, the Russians—several on their delegation thought that somehow we were seeking to embarrass them. And I remember the Ukrainian representative very dismissively—and I remember—Ben, you would remember that—said, but they’re just prostitutes, as if somehow they were less than human. It was really a very disturbing spectacle.

But the next year at the Bucharest OSCE Parliamentary Assembly, not only did we have virtually every one of the delegations joining in on the parliamentary supplementary item, as we called it, but the Russians spoke out, and the head of the Duma actually gave a speech in favor of the parliamentary supplemental item combating human trafficking.

As the special rep for human trafficking in the parliamentary assembly for the OSCE, I know full well considerable progress has been made. I remain deeply concerned that of the 56 OSCE participating States, 20 will rank as Tier 2, with another 8 placed on the Tier 2 Watch List.

Our efforts could not have been possible both within the OSCE as well as here in the United States without the invaluable contribution of civil society, who have helped us write the laws and, frankly, all subsequent iterations of the TPVA and other similar bills around the world.

Last week, we heard Deb Cundy of the Carlson Companies, which manage numerous hotel chains including the Radisson and Country Inns and Suites, explain how their employees were trained to spot potential trafficking victims and how that employee should notify law enforcement. Christopher Davis of The Body Shop International detailed the extraordinary education and awareness pro-

gram that they have initiated, coupled with a petition drive that has garnered approximately 6 million signatures worldwide.

As we reauthorize certain sections of the act—obviously some of the act, some provisions, are permanent law; others need to be reauthorized, and they expire in the end of September—civil society representatives have flooded my office and, I'm sure, Ambassador Luis CdeBaca's office, who was in Rome at that conference and did a magnificent job, with some thoughts as to what they think ought to be done to improve and make more efficacious our policy vis-a-vis trafficking.

As we all know, traffickers prey upon those in poverty and those lacking even the prospect of a job. I have visited trafficking victims' shelters in countries throughout the world, including Russia, Nigeria, Peru, Romania, D.R. Congo, Ethiopia, Brazil, Bosnia, Italy, and elsewhere. I've seen the faces—as have so many of you who will testify and so many in the audience, and certainly Members of our Commission—seen those faces of the victims—women and children and men—robbed of their inherent dignity.

In Moldova, Catholic Relief Services documented that high school aged girls were disappearing, literally disappearing into human trafficking in large part due to the extreme lack of job opportunities in that country. CRS created the Moldova Employment and Training Alliance, which encourage private sector companies to expand in rural villages. And certainly, that has made a huge difference in that country.

As a destination country, we must recognize that here in our very own backyard, thousands of people are trafficked from all over the world to work on our farms, in our hotels, our restaurants and even to serve as domestic workers. Well, even more shocking is that many of these labor migrants enter the country legally through their own immigration system, deceived by their traffickers who sold them a dream.

Indeed, this afternoon we will focus on various aspects of labor trafficking, including abusive and illegal business practices, as well as ways to better educate potential migrants of their rights. Among other issues to be considered will be increased education and accountability, foreign labor recruiting practices and enhancing supply chain transparency. Labor trafficking remains the most prevalent form of human trafficking in the United States.

U.S. funding for anti-trafficking efforts abroad have brought together labor inspectors, police, prosecutors, NGOs and faith-based organizations. Obviously, many challenges remain. So it falls to us and likeminded people of goodwill everywhere to meet those challenges head-on and wage an unceasing campaign to eradicate human trafficking from the face of the Earth.

Today we are joined by Ambassador Luis CdeBaca, Director of the State Department Office to Monitor and Combat Trafficking in Persons. He is joined by Dr. Gabriela Lemus, the Department of Labor's labor representative to the Senior Policy Operating Group on Trafficking in Persons.

On our second panel, we will hear from the Director of the Washington Office of the International Labor Organization, Ms. Nancy A. Donaldson; Ms. Neha Misra, specialist on migration and human trafficking for the Solidarity Center; and we have a very special

guest in actress and activist Julia Ormond, founder of the Alliance to Stop Slavery and End Trafficking—a very talented actress and a tireless humanitarian activist who was absolutely instrumental in getting landmark legislation passed in California to combat labor trafficking and to figure out the supply systems of companies through better transparency and by working with those companies. So we will hear from that second panel after we hear from our very distinguished first panel.

I'd like to yield to a good friend and colleague, Mr. Cardin, Co-Chairman of this Commission.

HON. BENJAMIN L. CARDIN, CO-CHAIRMAN, COMMISSION ON SECURITY AND COOPERATION IN EUROPE

Mr. CARDIN. Well, to Chairman Smith, thank you very much for arranging this hearing. I think it's an extremely important subject. I would ask that my written opening statement be made part of the record.

Mr. SMITH. Without objection.

Mr. CARDIN. And I will just comment briefly. It's with great pride that the Helsinki Commission takes on dealing with the issue of trafficking, because it was this Commission that first raised these issues. And in the course of that, we conducted hearings; we sponsored resolutions at the parliamentary assemblies in order to get more international focus on modern-day slavery. We took a pretty tough stand. And Chairman Smith is right. Some of the initial reactions were less than sympathetic.

But we persisted. And with the support of our delegation to Vienna, the United States had a united position to do everything we could to rid our societies of trafficking, the form of modern-day slavery. Then the permanent council started to act, and we started to get some best practices shared by other states. With the legislature and executive working in tandem, we were able to make significant progress.

I remember visiting some of the shelters, where we visited with the victims and were able to put a spotlight on the issue that those that are trafficked are not criminals but they're victims. And law enforcement needs to conduct its affairs mindful of who the real criminals are. And we made more progress and were able to get Special Representatives, both in the Parliamentary Assembly—and, as you know, our Chairman, Chairman Smith, is that Special Representative—and in the Permanent Council of the OSCE.

So we've made progress. We have a game plan today to deal with trafficking. And the United States has shown tremendous leadership in the passage of not only our domestic laws, which are very strong, but also the reports that are now required to be filed. These reports, I can tell you, have a major impact—as I'm sure Chairman Smith would agree. When Ambassadors visit our office, that's one of the first issues they'll talk to us about, because they don't want to be listed as a watch state.

Our primary focus has been on sexual exploitation. And I think that reason is somewhat self-obvious. It's a very serious situation around the globe, and we were able to make significant progress. Labor exploitation's a little bit more complicated, because there's an economic issue here that has some legitimacy—at least people

think there's some legitimacy because of open borders and bringing in labor to help in your country.

I want to applaud Chairman Smith for holding this hearing so that we can take a look at trafficking related to labor issues, particularly in these very difficult economic times.

I want to point out that debt bondage for migration costs can amount to involuntary servitude or slavery. And we need to take a look at how these matters are being financed, because they are being used to deny people their basic human rights. I want to congratulate the Obama administration for taking this issue of labor seriously and the way that the Obama administration has coordinated the work within the Department of State and the Department of Commerce. That's what you need to do. This is a matter that involves both of those agencies. And I know they're working closely together.

This is a very timely hearing. For Congress, shortly will be looking at the reauthorization of the Trafficking Victims Protection Act. And in that act, I note that in 2008, in a matter that I helped draft, we put into that law additional tools for our consulate officers to be able to look at those who are requesting visas to come into the United States. I'll be interested in hearing from our witnesses today whether those efforts are paying off. There's training requirements that consular officers be able to identify circumstances that look like they're trafficking. How has that in fact worked? Do we need to expand that training to other border officers and law enforcement officers? These are issues that I think we need to take a look at as we move forward to the reauthorization practices.

Our bottom line is, we want to see what other countries are doing. We can learn from best practices of other countries in dealing with these issues. And I think we need to share the success stories so that we can, in fact, at long last get rid of these labor abuses. Working together, we can continue to make progress that we've made in the past so that we can eliminate all forms of modern-day slavery. I look forward to hearing from the witnesses.

Mr. SMITH. Thank you, Chairman Cardin. I'd like to yield to the Chairman of the Energy and Commerce Health Committee, a Commissioner on our Helsinki Commission for many years, Joe Pitts.

**HON. JOSEPH R. PITTS, COMMISSIONER, COMMISSION ON
SECURITY AND COOPERATION IN EUROPE**

Mr. PITTS. Thank you, Mr. Chairman. And as an original co-sponsor of the Trafficking in Persons Law and with you in the OSCE, putting forth these issues, I thank you for scheduling this hearing entitled "Labor Trafficking in Troubled Economic Times: Protecting American Jobs and Migrant Human Rights." The issues involved in the exploitation of migrant workers, broad and on American soil, are of grave concern to the OSCE. In the wake of a global recession, it is important that we continue our focus on human trafficking and migrant worker populations now more than ever.

While the United States has taken a lead on confronting and combating human trafficking, we must do everything we can to end the practice. And this includes looking at ways to verify worker

practices and conditions. We must find better ways at enforcing our own policies. Recent high-profile cases of violations have highlighted the need for a systemic verification process, one that is multilateral, including the help of foreign governments and organizations, and one that verifies from the bottom up, leaving no room for abuse throughout the supply chain.

So, Mr. Chairman, I thank you for holding this important hearing. I look forward to hearing the ideas from our witnesses here today and hope that we can find concrete solutions to dealing with the problem of labor exploitation here in the United States. And I yield back.

Mr. SMITH. Commissioner Pitts, thank you very much. I'd like to now yield to a new Member but very active Member, Steve Cohen.

**HON. STEVE COHEN, COMMISSIONER, COMMISSION ON
SECURITY AND COOPERATION IN EUROPE**

Mr. COHEN. Thank you, Mr. Chairman. It's a pleasure to be here, and I'm going to look forward to listening to the testimony. Ambassador CdeBaca was a counsel to the Judiciary Committee, which I serve on, and has quite an honorable and distinguished record. Good to see you again in your position. And Ms. Lemus has been at some of the greatest universities in this country, including the University of Memphis. So it's good to have a Memphis denizen, even if a short tenure with us today.

This is an important issue. Slavery in any component is something we need to fight, and it needs to be something we do in a bipartisan fashion, because freedom is the bottom line. You know, there's nothing left to lose. And we had a history in our country of slavery. And sometimes we think of slavery simply as that form of the most heinous, direct, main line of slavery. But there are other forms. There are temporary forms. There are forms that we have, and we need to combat them and make employers just as liable for looking the other way, maybe not knowingly, but looking the other way when they're beneficiaries of slave labor. And we know that happens in this country and that whether they are landlords who have leased to people who are involved in labor trafficking, whether they are along the chain—I know we have products, and the California law goes along the chain to make people be aware that they will not be involved, and any producer of raw materials in the final product if they're involved in the slave trade, that they won't be allowed. I guess there'll be sanctions in the California law. I'd hope so. And that's what there should be. We have that for product. I know if you buy a guitar and it's got any kind of a wood product in it that's on the endangered list, you get in trouble for the final product. We should have the same thing. If wood is important, which it is in Brazil and the rainforests and all, it should be with human beings even more so.

I'm Jewish. And Passover, which is my favorite holiday, not just because of the food but because of the lesson that we were in bondage and that we should always be cognizant of any people who were in bondage. And that's just not building pyramids or doing cotton. But that's the folks we're going to talk about here today. And the Judeo-Christian ethos which we are all a product of needs

to be adhered to, and we need to pass the most rigorous and strong laws that we can to protect everyone.

So with that, I thank the Chairman for scheduling this Commission meeting. I look forward to your testimony. I yield back the balance of my time.

Mr. SMITH. Mr. Cohen, thank you very much. And quoting Janis Joplin there?

Let me just introduce our very distinguished panelists beginning with Ambassador Luis CdeBaca, Ambassador-at-Large of the Office to Monitor and Combat Trafficking in Persons. In May 2009, he was appointed by President Obama to coordinate U.S. Government activities in the global fight against contemporary forms of slavery. He serves as Senior Adviser to the Secretary, and directs the State Department's Office to Monitor and Combat Trafficking in Persons which, as we all know, assesses global trends, provides training and technical assistance and advocates for an end to slavery. Ambassador CdeBaca formally served as Counsel, as Commissioner Cohen just said, to the House Committee on the Judiciary. And at the Justice Department, he is one of our country's most decorated Federal prosecutors, leading the investigation and prosecution of cases involving money laundering, organized crime, alien smuggling, official misconduct, hate crimes, and of course human trafficking. He was responsible for the conviction of dozens of abusive pimps and employers, and helped to liberate hundreds of victims from servitude.

Then we'll hear from Dr. Gabriela Lemus, who was appointed Senior Advisor and Director of the Office of Public Engagement at the Department of Labor in July 2009. She represents the DOL at the Senior Policy Operating Group in Trafficking in Persons, the President's Task Force on Puerto Rico's Status, and various inter-agency working groups on immigration policy. Prior to her appointment, she was the first woman to hold the position of Executive Director at the Labor Counsel for Latin America's advancement, from 2007 to 2009, as well as the first woman to chair the National Hispanic Leadership Agenda from 2008 to 2009. She served 3-year terms on the advisory boards of both the Washington Office on Latin America, or WOLA, and the U.S. Labor Education in the Americas Project from 2006 to 2009.

Mr. Ambassador, please proceed as you would like.

AMBASSADOR LUIS CdeBACA, DIRECTOR, OFFICE TO MONITOR AND COMBAT TRAFFICKING IN PERSONS, U.S. DEPARTMENT OF STATE

Amb. CDEBACA. Thank you, Mr. Chairman. Good afternoon, everyone, and thank you for the opportunity to shed light on the problem of labor trafficking both here, in the United States, and abroad. As you have mentioned, the OSCE and the Helsinki Commission in particular has led on this issue, as on many others.

In Rome last week at the conference that was dealing with some of these issues, especially issues of supply chain, the words of one of our panelists from Rabbis for Human Rights North America reminded me and suggested what you have said, Mr. Cohen, which is that we are in some ways in the 10th year of this fight since the passage of the Trafficking Victims Protection Act. But as the West-

ern world, as people of faith and as those who reflect the Judeo-Christian values, that we are in year 3,500 of this fight, and we should be measured on it in that sense.

And unfortunately, 3,500 years later, estimates on the total number of trafficking victims in the world are as high as 27 million. We know that the United States is a major destination, but we don't know how many victims of labor trafficking there are specifically in this country, because it's a hidden crime. Victims are often afraid to come forward, or unable, sometimes because they fear the very officers that could help them.

But the cases that have been uncovered tell us some things. We know that labor trafficking is a problem that affects men, women and children alike. Labor trafficking victims often suffer ongoing sexual abuse, as well as threats of physical violence, and that the cases now are uncomfortably identical to cases that the United States prosecuted in sharecropping in the 1930s, the railroad gangs of the turn of the century, or the padroni child begging cases of the 1870s.

Labor trafficking victims today are lured with the same types of promises—a good job and a better life—only to be trapped through their specific vulnerabilities. For foreign workers, that's often lack of documents, language or familiarity with their rights here in America. For U.S. citizens, it's often homelessness, mental illness or addiction. Whatever the hook that the traffickers use, we must bring this cycle to an end once and for all.

As you know, the United States follows an expansive definition of human trafficking that encompasses all of the actions in reducing a person or holding them in a condition of servitude, and so that means that the recruiter who feeds the victim into the system, and the end user who knowingly or recklessly profits from the abuse, are properly as guilty as the employer who enslaves the victim. Our response is based on the internationally recognized "3P" paradigm: prosecution, protection, and prevention. All of these victims are entitled to rehabilitation, and to see their abusers brought to justice.

We have seen progress over the last decade. And across government, we are ever more united in this struggle. More cases are being done both federally and at the state level than ever before. And while victim identifications at times stress and strain our victim services response, NGOs and frontline law enforcement work to ensure a safety net when these people are found.

In particular, I'd like to praise my colleagues at the Department of Labor for their work both at home and abroad. In the United States for instance, they've implemented a rule that strengthens protections for a particularly vulnerable group, the temporary H-2A agricultural visa holders. My colleague Dr. Lemus will be able to highlight this and other actions that Secretary Solis has taken to confront this scourge.

But to ensure that these efforts do not fizzle out as they have at other points throughout the last 150 years here in America, we need to institutionalize our capacity, maintain our resources and ensure innovation across the whole of government. And while every aspect can and must be addressed, I'd like to highlight one of the most innovative things that's happening, and that is prevention.

It's basic economics that without demand, there will be no supply. So we're looking to engage on this aspect in both forced labor and sex trafficking alike. The so-called sex industry is not a valid form of labor, and it poses its own unique challenges. But there are commonalities in these areas, most notably the need to hold everyone accountable and to make the cultural change necessary that undercuts the demand for what the traffickers are using cruelty to supply.

Forced labor is prevalent in the production of a wide range of raw materials that we all come in contact, and probably came into contact at some point today, from cotton, chocolate, coffee, steel, rubber, tin. Even reputable corporate citizens can profit from the abuse.

So, as you mentioned, Mr. Chairman, the cutting edge of anti-trafficking work is demanding that companies focus their attentions beyond the places where their products are manufactured and, instead, look at the source of their human capital, the methods of recruitment, where the raw materials are collected, harvested, or mined. Effective supply chain monitoring means going all the way down to that level. We think that such research will enhance our understanding of supply and demand factors that affect those workers whose labor contributes to the downstream profits. The aim is to find trafficking where it occurs, and that this knowledge will allow companies to join the Body Shop and Carlson Companies and others in running their business in a manner consistent with the "3P" paradigm.

Removing the taint of slavery is better for everyone. Take for instance what's been reported from the berry patches of Sweden and Finland: Asian guest workers so abused that they were reduced to surviving on a soup made of whatever grasses they could gather and whatever crows they could shoot. If a consumer knew the suffering of the hands that had picked those berries, we would hope that they would have been moved to act.

A conference last winter produced the Luxor Implementation Guidelines to the U.N.'s Athens Ethical principles, which seek to move beyond aspirational statements to the development of standard operating procedures, moving beyond principles to practice and implementation. And to date, nearly 600 companies have adopted those guidelines. That represents the future of the fight against modern slavery.

But of course, government's role will remain central. Our counterparts in Europe have increasingly recognized this problem which all too often has been confused as low-level labor abuses of migrant workers. Today, with the leadership of the OSCE and the E.U. anti-trafficking directive, cases are on the rise. Countries with active rapporteurs, such as Eva Biaudet, who used to be at the OSCE's anti-trafficking unit, are seeing increases in trafficking prosecutions. As in the United States, Europe has seen cases in factories, hotels, janitorial, agriculture, forestry, landscaping and domestic service.

Here in the United States, the State of California recently enacted the law that you mentioned, Mr. Chairman. And we're looking forward not only to see how that law works in the real world, but also to hear from Julia Ormond who, without this—her activi-

ties, the legislation would never have been possible. We thank her for her vision and for her hard work in getting that law passed.

And we're trying to, and we're beginning to apply those standards to ourselves. Governments are some of the largest consumers in the world, and the U.S. Government may be one of the largest. We can use our leverage as consumers to curb the demand for forced labor. We've taken steps in the U.S. Government procurement and contracting policies to protect against human trafficking. EEOC and the Department of Homeland Security, through this bog, are co-chairing a working group on implementation of the Federal Acquisition Regulation to combat modern slavery and contributing factors like the demand for commercial sex. And we will make sure that we work closely with this committee and with each of you individually as we start getting the recommendations back on how to best address the government's purchasing to make sure that we have, as we ask of others, a slavery-free footprint.

We're at a moment in the modern abolitionist movement when we need to ask, what are the next steps? And over the last decade, the important tools have been put in place. We have before us now the long, hard road of implementation and institutionalization. And we believe that with the engagement of dedicated lawmakers and the commitment of the U.S. Government, the next 10 years, both here at the OSCE and abroad, will be a decade of delivering on that which we promised almost 150 years ago with the issuance of the Emancipation Proclamation. I look forward to working with you as we continue to deliver on that promise, and we appreciate your work.

Mr. SMITH. Mr. Ambassador, thank you very much for your testimony and your leadership.

I'd like to now recognize Ms. Lemus.

GABRIELA D. LEMUS, LABOR REPRESENTATIVE TO THE SENIOR POLICY OPERATING GROUP ON TRAFFICKING IN PERSONS, U.S. DEPARTMENT OF LABOR

Ms. LEMUS. Thank you. Chairman Smith, Co-Chairman Cardin, and distinguished Members of the Commission, on behalf of the Department of Labor and Secretary Solis, I thank you for the opportunity to discuss the Department's efforts to combat human trafficking both domestically and internationally.

Under the Secretary's leadership, the Wage and Hour Division, the Bureau of International Labor Affairs and the Employment and Training Administration work collaboratively to ensure that the Department uses all available tools in the most efficient and effective manner to protect these vulnerable populations. I am pleased to report to the Commission our efforts.

The Wage and Hour Division enforces some of the Nation's most comprehensive Federal labor laws, allowing the agency to have a daily presence in American workplaces. While Wage and Hour does not have responsibility to investigate trafficking directly, many of its investigations take place in industry marked by workers who are vulnerable to trafficking. This means that Wage and Hour Division is often the first Federal agency to make contact with the workers who may have been trafficked or maybe otherwise employed under abusive conditions in violation of the law.

Because of its focus on civil enforcement, criminal activity found in the workplace by Wage and Hour investigators may be referred to an appropriate authority as part of the standard Wage and Hour procedure. After a referral is made, the agency's assistance may be requested to compute back wages to ensure restitution on behalf of victims of trafficking, and to assess penalties against their employers. Additionally, in its role of investigating workplace laws, the Department of Labor may detect evidence that a worker is a victim of certain criminal activity, including trafficking, that may qualify the worker for U nonimmigrant status.

In April 2011, the Department announced protocols to complete a certification that the individual petitioning for U nonimmigrant status is a victim of a qualifying crime and is, has been or is likely to be helpful in the investigation or prosecution of that crime. The Wage and Hour Division is also a member of the Federal Enforcement Working Group, along with the Justice Department, the FBI, and Immigration and Customs Enforcement. As part of the working group, Wage and Hour is participating in the development and implementation of the—a pilot Federal anti-trafficking coordination team, the ACT team program. The goal of the ACT team program is, one, to proactively identify and assist human trafficking victims; two, to develop victim-centered multidisciplinary human-trafficking investigations; and three, produce high-impact human-trafficking prosecutions resulting in the conviction of traffickers.

Finally, Wage and Hour also participates in several other outreach and partnership activities to share information and leverage community-based resources to more effectively inform workers about their rights and how they can file Wage and Hour complaints. Such information can assist vulnerable workers, including those who may have been trafficked.

Through the Department of International Labor Affairs, it also plays a critical role in bringing to light the dark stories of human trafficking. In December 2010, the Department released three new reports on child labor and forced labor. Together, these reports demonstrate that from factories to farms, abuses of fundamental human rights, including human trafficking, still persist in the 21st century. These reports are, one, the list of goods produced by child or forced labor; two, the list of products produced by forced or indentured child labor; and three, the ninth annual findings on the worst forms of child labor.

Since 1995, Congress has appropriated over \$839 million to ILAB for programs to combat international child labor. This funding has supported technical assistance projects in more than 80 countries and reached approximately 1.5 million children at risk of, or engaged in, exploitative child labor. While the Department's technical assistance programs include stand-alone trafficking in persons projects, many also include multi-faceted projects to address other worst forms of child labor in addition to trafficking, because many of the most vulnerable workers in the United States are temporary foreign ag workers—agricultural workers, excuse me.

ETA's H-2A program is another significant locus in the Department's efforts to combat trafficking. It is paramount that both workers in the United States and temporary foreign workers are provided with appropriate and adequate worker protections. In

March 2010, a final ruling addressing the temporary agricultural employment of H-2A aliens in the United States became effective. The final rule includes enhanced mechanisms for protecting H-2A workers, who are increasingly susceptible to the abuses of dishonest employers and their agents, such as foreign labor recruiters. The 2010 final rule requires employers to contractually forbid foreign labor contractors or recruiters engaged in international recruitment of H-2A workers from seeking or receiving payments from such prospective employees. The 2010 H-2A final rule enhanced enforcement provisions allow the department to investigate and sanction employers and their agents or attorneys where there is a violation of regulation provisions. These penalties demonstrate the department's commitment to strengthening the necessary enforcement of a law that protects workers who are unlikely to complain to government agencies about violations of their rights under the program.

In conclusion, in today's global economy, workers in any country are vulnerable to trafficking and labor rights abuses. The department's innovative and integrative programs help workers earn decent incomes, and prevent them from being abused and exploited. This approach is a vital part of the administration's goal of ensuring that globalization provides benefits and opportunities for workers everywhere, rather than triggering a race to the bottom.

Again, thank you for the opportunity to testify today. I'm happy to answer any questions the Commission may have on the Department of Labor's efforts to combat trafficking.

Mr. SMITH. Thank you very much, Ms. Lemus.

Let me just begin the questioning, if I could. Both you, Mr. Ambassador, and I both referenced the important work that has been done by Julia Ormond as founder of the Alliance to Stop Slavery and End Trafficking. And Senate Bill 657, which was signed into law, as you know, requires retail sellers and manufacturers doing business in California to publicly disclose their efforts to eradicate slavery—I'm reading from an op-ed written by Ms. Ormond—and human trafficking from their direct supply chains. She points out that by January 2012, companies impacted by the bill will have to post on their Web sites what policies they have in place to ensure that their supply chains are free of slavery and human trafficking.

And my question is, this is a model bill. Obviously there's another 49 States and the District of Columbia that could follow suit, and obviously the Federal Government ought to be thinking along these lines as well. And I was wondering what your thoughts are about the new law's strengths and weaknesses, whether or not—and I don't think we should wait until January 2012 to see how well or poorly it's working. I do think it looks to bring business along for the ride, and so I would be interested in your thought on this piece of legislation.

Amb. CDEBACA. Thank you, Mr. Smith. We are very excited about the California law. We think that this is a very good way that one of the States—a State which, of course, if it were its own economy, certainly it would be part of the G-20, if not maybe even the G-8. A State like California taking these actions is going to have a ripple effect to countries and companies all the way around the world, because anyone who is a multinational company worthy

of the name is doing business in California. One of the things that we see from our perspective—and I think we all look forward to hearing from Ms. Ormond and others on the specifics of the law—but what we’ve seen in talking to California, a real hero against the fight against traffickers in the Attorney General’s office there, Kamala Harris, from her time when she was a State’s attorney in San Francisco, but also Jerry Brown, who’s gone from overseeing the training of law enforcement in California as the Attorney General, to go after trafficking in a new way over the last few years. His office has been very supportive of this. So one of the things that we think is going to happen is that all of us, as consumers, as the State Department’s Office to Monitor and Combat Trafficking, academics, et cetera, will be able to access this information and start figuring out what the companies are doing.

I think the brilliance of this is that in our understanding, it doesn’t necessarily say what particular policy company has to have; they just have to have something. And we think that that will then put it out to the marketplace of ideas. It’s an innovative way to have a regulatory structure that actually brings the market to bear, so all of us as consumers can look at these companies and make decisions, and put pressure on them accordingly.

Mr. SMITH. I appreciate that, thank you. Let me just ask: A common theme in trafficking for labor exploitation is holding the victim in debt bondage through recruitment and migration fees. Although the practice is illegal, and some countries have prohibited it under international conventions, how can we do a better job in enforcing that part of this chain of degradation? If you could—

Amb. CDEBACA. One of the things Congress did on its, I think, first day back after the end of the Civil War was pass a law that was called the “peonage” law—because of the term for debt bondage in Spanish—that made it clear that the protections of the thirteenth amendment didn’t just apply to the newly freed African-American slaves in the South, but applied to people all over the country. So this notion of debt bondage as being one of our core anti-slavery ideals in the United States is key to our efforts.

One of the things that we’ve seen is that with the passage of the 2008 reauthorization of fraud in foreign labor contracting, we’ve seen our first convictions of that now in a case out of Kansas City where people were being brought over for janitorial services. We think that that’s going to be a powerful tool because sometimes you can show that there was a debt, but you can’t show that the debt was then specifically used as a threat. So we think that that fraud in foreign labor contracting provision of Title 18 that was in the TVPRA is going to help an awful lot.

Two other areas, though, that we think that we need to look at: We’re working with countries around the world to try to—as the Department of Labor’s final rule on the guest worker programs here in the United States does—to try to strip the power of the labor recruiters to basically sell the chance to work in another country in exchange for the person’s freedom. We see that as something that only when we are able to bridge the power differential between the source countries—your Bangladeshes, Philippines, Malaysia, et cetera, and the wealthy countries such as Saudi Arabia, Qatar, other countries in the Persian Gulf—only when we are able

to narrow that power differential will we be able to end this practice of debt bondage.

So for the first time just about a month-and-a-half ago, we were able to attend the Colombo Process, which is the sending and receiving countries—a multilateral forum. They asked the United States to attend because I think they've realized that even though we were not one of the countries involved, that we had a particular voice. And we're going to use that as an avenue, as well as ASEAN and some of the other fora, to put that kind of pressure on the receiving countries.

Mr. SMITH. Thank you. Ms. Lemus, back on July 11th and July 15, 1996, I held two hearings on child labor. Robert Reich testified; he made an impassioned appeal that we have to prioritize, we have to keep our focus. Then, we actually had Kathy Lee Gifford testify; she was embroiled in a problem of her line of clothing being made by sweatshops in Central America.

But we actually heard from Wage and Hour—the Administrator at U.S. Department of Labor, Maria Echaveste, who had just produced and spoke about the report, “By the Sweat & Toil of Children,” and she made a very strong statement that without the participation of industry—and this was back in 1996—because we have too few Wage and Hour investigators, too few people at the State and Federal level, you just can't enforce; you have to have buy-in fully by the industry—that our efforts would flounder without that.

And I'm wondering—that was back in 1996—what is the industry doing now to be full-fledged partners in trying to combat labor trafficking?

Ms. LEMUS. Well, at the Department of Labor, part of what we've also tried to do is to increase the number of inspectors and ensure that they're not only bilingual, but that they have had training around the issue of human trafficking. As I said earlier, they are the first to come to the table and see, maybe witness where persons have been victims of trafficking.

On our end, we do about 26,000 inspections a year, yet there are approximately 7 million employers. So obviously, it's a challenge. And we do need assistance from the employers themselves to have buy-in that they wish to participate. And we would say probably a good majority of them are going to be good actors.

Internationally, when we work with child labor issues in particular, what we're noting is that those reports do have an effect—that countries—as you said at the beginning, the Ambassadors—as soon as their reports come out, the phone calls at our international labor affairs office, they start streaming in quite steadily. And it's really an effort to partner with not only the countries but the businesses themselves to ensure that we are changing the bar, that we're actually raising the bar in terms of that participation with the private sector.

Mr. SMITH. Thank you. Chairman Cardin.

Mr. CARDIN. Thank you very much, Mr. Chairman. And let me thank both of our witnesses. The 2010 Trafficking in Persons Report, TIP report, for the first time included an analysis of the United States, which I think many of us thought was a major improvement on the TIP report.

Is it the Secretary's intent that the United States will be included in future reports?

Amb. CDEBACA. That's correct.

Mr. CARDIN. Good. I'm going to make sure that is done because I think it is helpful. But let me talk a little bit about your testimony—you were talking about the H-2A enforcement provisions—and I guess my question to you: How do you enforce this? You already pointed out that many of the laborers will be reluctant to come forward to talk about the circumstances out of fear. Could you just share with us how you intend to enforce the provisions you talked about in the H-2A program?

Ms. LEMUS. Through the Wage and Hour Division in particular, we have engaged in a variety of local campaigns—or national campaign, I should say—but also State and local law enforcement and community-based types of task forces. The Wage and Hour Division belongs to about 25 taskforces across the country at the local level.

We also participate in the [47:46] [Federal act team ?] program, which is looking right at this point—and my understanding is, they're pilot programs—but they're looking to really increase the level of cooperation across Federal law enforcement agencies to really improve—we look at the three P's as prevention, protection, and prosecution; we kind of start on the prevention end of things because a lot of what we have to do is that educational piece.

We're also engaged—and this is not a new program, but it's something that we've reinvigorated: We've re-engaged with a memo of understanding with the Government of Mexico, for example, whereby we have signed a memo of understanding to basically ensure that workers that come in from Mexico are aware of the—

Mr. CARDIN. But if I understand your H-2A restriction about the foreign employment agencies being prohibited from being compensated, is that what you said? Did I hear you correctly on that?

Ms. LEMUS. The foreign labor contractors are not to receive any payment from an employee. And it's up to the employer to pay all fees, et cetera, and contractually state that they—in the contract with their agents—that they may not charge them any fees.

Mr. CARDIN. And again, how are you going to enforce that if you don't have your own inspectors out, or some way of finding out what's going on? It's wonderful to have cooperation, but I don't think you're going to have cooperation from unscrupulous foreign employment agencies or the workers who are afraid of losing their jobs.

Ms. LEMUS. That is correct. There's an audit process through the employment training that actually certifies the visas. Prior to, they look at the procedures of the paperwork if for any reason there are any types of violations whatsoever. And there is a new audit process that began, I want to say, last year. So it's relatively new, but it's something that's been added. So after the fact, they are continuously checking the information from the workers.

The workers do come forward, not as often as we would like and not as well as we would like, so we've also increased our partnerships with local community-based organizations, faith-based organizations, et cetera, but also State and local law enforcement so that they can come forward as well. Sometimes, the workers do not

wish to speak on their own behalves, and they have to have these third parties intervene, including, for example, the consulates.

Mr. CARDIN. Can either one of you follow up with us with how the 2008 provisions about training consulars on the issuance of visas, do we have any direct information on oversight as to how that has been enforced?

Amb. CDEBACA. Certainly, Senator. One of the things that our consular officers now receive during ConGen, which is the basic consular officers' course—the trafficking victims identification, the indicators, et cetera, are now taught during the basic course. So it's not just kind of remedial training like it had been in the past. Additionally, an online training course is available for the consular officers out in the field for updates and for keeping current.

But one of the things that we've seen that is probably the best training is the repetition of the training. You're familiar with, in the TVPRA of '08, the requirement that we work with the non-governmental organizations to come up with a brochure that would be given to many of the work-based or employment-based visa, non-immigrant categories. And that's the "know your rights" brochure that is now given out. It's actually reviewed by the consular officer with the immigrant during the interview on the visa line.

I can't say that it's always 100 percent—it kind of depends on what's happening at that exact moment. But one of the things that we've seen is, it's got the 24-hour hotline on it, they have received upwards of a thousand calls since this went into place a couple years ago. Some of those calls are general wage-hour type of calls, people wanting to know about housing conditions, people wanting to know about a whole host of worker rights. But some of those calls are human trafficking calls. And it's something that we work with the Human Trafficking Resource Center and with these task forces the Department of Justice and ICE and others run to make sure that they respond when there's an allegation that's coming forth.

Mr. CARDIN. Thank you. Mr. Chairman, let me just point out: I think it's important that our staff really review the analysis of the United States in the TIP report. Let me just point out one nuance here that was in this report dealing with benefits. And as you know, immigrants, non-nationals, are entitled to very few benefits in this country. And if they are certified as being a foreign victim, then they are entitled to certain benefits.

And even though there was a 250-percent increase in certifications for victims in the last year, there was no increase in funding for those programs.

We already have a relatively—well, we already have a hostile attitude in this country on benefits for non-nationals. And we're dealing here with an area where we have either potential victims or victims that it seems to me we need to conform to international standards as to how we deal with governmental services available to this class of individuals.

Thank you, Mr. Chairman.

Mr. SMITH. Commissioner Cohen.

Mr. COHEN. Thank you, Mr. Chairman. Mr. Ambassador, do we have—and it's hard to quantify, but could you give me the three or four worst countries that are involved in the slave trade?

Amb. CDEBACA. Well, I think, Mr. Cohen, there's a couple of ways to cut that particular orange. Whether it's the raw numbers, I think that most interlocutors that look at it certainly in the report indicates that South Asia, that South Asian countries continue to have perhaps the largest numbers—India, Nepal, Bangladesh, et cetera. East Asia and the Pacific region continue to be of great concern as far as the numbers are concerned.

But one of the things that we often are trying to balance as far as saying, what's the worst country that there would be to be a trafficking victim—and probably our heart goes out to most of the folks in the AF region, the Africa region, because you're talking about countries that have so few functioning governmental structures, rule of law that's not really there. Even if there is an anti-trafficking law, even if they are active in the AU up in Addis, which does an anti-trafficking day for the African child—against child trafficking—on June 16th each year, that doesn't necessarily mean it translates out into the villages, out into the places where these kids are enslaved, whether it's in the cocoa plantations, whether it's the fishing fleet on Lake Volta or otherwise.

So without necessarily going into a particular country in Africa, we think that Africa is deserving of a lot more of attention. We can't take our eyes off the prize as far as the countries that are continually of concern in East Asia and South Asia. But we feel like the African children and the African men and women deserve to be free from slavery and involuntary servitude just as much as their partners.

Mr. COHEN. What I was thinking of—and I feel like it's going to be difficult. I was imagining that maybe Ukraine and some of the more Western countries might have had more of an involvement. But if the State Department has any sanctions against countries, and if that could happen—

Amb. CDEBACA. This is something that is one of the tools in our tool chest: Each year with the trafficking report, the ranking of the countries from Tier 1 down to Tier 3—following that Tier 3 designation can come sanctioning. And we've seen great movement, for instance, just in the last year from the Government of Moldova, which was very publicly concerned that sanctions might kick in and that sanctions, not just the sanctions from the TVPA—but perhaps even more importantly, the TVPA requires the United States to vote against a country that's on Tier 3 in the IMF, World Bank, et cetera.

And in the Millennium Challenge Corporation, we've seen a lot of movement on countries who are concerned about their MCC money. Because then you're talking about some real money. So we've seen just in the last year the Government of Moldova, which doesn't necessarily have it to spare, spend almost \$900,000 on victim care.

Ukraine is still a problem, but not necessarily with its back against the wall the way it was 10 years ago because of the number of projects both at the OSCE, the U.S. Government projects, AID, Justice Department, et cetera. But we've seen that notion of sanctions, and the threat of sanctions, as something that is moving these countries.

Mr. COHEN. As a judiciary graduate, are there laws that we should be looking at in judiciary you can recommend to us to strengthen what the body of law is in our country?

Amb. CDEBACA. Well, one of the things that we look at each year in the minimum standards when we're putting together the rankings of the TIP report is the sufficiency of the laws in these countries. At the end of the day, what we've been very adamant on is that they have a law that's not based on old notions of people being moved across international borders—that's kind of the 1880s' version of human trafficking—but rather focusing upon the enslavement, focusing on the abuse of the people so they can see them not as an illegal migrant but as a victim of slavery.

So through the ABA, through the International Organization for Migration, through U.N. Office of Drugs and Crime and bilaterally, just directly as the United States, we've been working with countries to try to get these modern anti-trafficking laws passed. About 120 countries have done so since the passage of our Trafficking Victims Protection Act, which was one of the first ones and therefore the models.

But what we've seen in some countries is, they can have the best law on the books, but if they don't go out and use it then it's a failed promise. So we're having to come back in behind those laws, make sure that they mean something in the real world.

Mr. COHEN. How about laws here in our country, about employers or landlords or tenants and/or employees that are involved either directly or secondarily in labor trafficking?

Amb. CDEBACA. One of the most positive things about the 2008 Trafficking Victims Protection reauthorization was moving from a full-on knowledge standard to a reckless-disregard standard for those who profit from human trafficking. And so what we're hoping is both the government—but then there's also civil liability under the trafficking act, which means that a good plaintiff's lawyer out there might take this and run with it.

But that notion of going after the hotel owner who knows that the pimps are bringing the underage girls or the women into the hotel and profiting from that, if they're knowingly looking the other way, if there's a farmer—you know, when I was at the Justice Department, I prosecuted a farm-labor contractor who was putting a work crew onto the same fields that one of my predecessors had prosecuted somebody 20 years before. And the farmer was the son of the man who had watched this other farm-labor contractor allow slavery.

But at the time, we didn't have this provision. So the hope is, now this provision with the reckless disregard, that'll be a way to hold, whether it's farmers, hotel owners, et cetera, accountable in a new way.

Mr. COHEN. Is there confiscation of property involved with those laws?

Amb. CDEBACA. There is, although to date, most of the asset forfeiture has been against the trafficker, the direct trafficker, rather than somebody who's knowingly or recklessly profiting from the trafficking. But I think that that's something that we've seen the Civil Rights Division act very aggressively on. It tends to focus one's mind when the domestic servant—say, for instance, in a case

that was prosecuted out of Wisconsin—a domestic servant who has been held captive in a house for 19 years ends up owning that house because the government comes in and takes it away from the people who enslaved her. That gets a lot of attention, and it should.

Mr. COHEN. Yes. I think it should, too. What do we have in the way of undercover operations? Do we have any of those?

Amb. CDEBACA. One of the things that's been tough about undercover operations is because we're dealing with human beings, it's kind of like doing the human experiment trials in a university setting: The level of controls that one needs to have as far as a controlled purchase, or something like that, becomes very challenging.

But we have in the United States done a number of innovative and proactive law enforcement approaches that I'd certainly be happy to brief you on offline; perhaps we could have some of our colleagues from DOJ and ICE as well to talk about some of those things that are being done.

Mr. COHEN. I was just thinking—now, you were in Judiciary when Stephen Colbert came, when he did the migrant worker day—maybe we could get Geraldo and let him do that.

Amb. CDEBACA. [Laughter.] Well, it's interesting because I think there has been some very effective undercover work. I think I saw in the audience today Ben Skinner, who in his book, "A Crime So Monstrous," talks about how he basically set his stopwatch when he left his apartment one morning in New York, and within 6 hours he had bought a Haitian child for slavery. And I think that that says a lot not only of what world we live in as far as involuntary servitude, but the kind of investigative reporting and the kind of undercover work that needs to be done if we're ever going to break this.

Mr. COHEN. Thank you, and thank you, Mr. Chairman.

Mr. SMITH. Commissioner Cohen. Let me ask just two very brief questions to Ambassador CdeBaca: The J-1 visa program, as you know, brings in about 100,000 college students from around the world to work in the United States. Some work on the Jersey Shore, and they often do work in the summer resort industry. And there have been increasing numbers of reports of abuse by third-party brokers and unsupervised businesses. Associated Press did an expose on this, as you know.

And my question is—and the national human trafficking hotline—let me just add this—has received, as I think you know, Mr. Ambassador, 369 calls from J-1 visa holders on the work and travel program from young people who are experiencing trafficking and other forms of exploitation from last summer alone.

Strip clubs and adult entertainment companies openly solicit J-1 workers even though government regulations ban students from taking those jobs that might bring the Department of State into disrepute. And I'm wondering what could be done to stop the abuse of J-1 visas by labor recruiters and businesses, ensuring that students who come here have a safe and humane experience, and not one of exploitation.

And second, on China—and I do hope when the designations of Tier 3 are listed that the Department and your office is very seriously considering the designation of Tier 3 for China both on the labor and sex trafficking area.

But I'm wondering what kind of data calls you've gotten from—and information from our Embassy and other sources about the exploitations of a Chinese work force. We know there's no OSHA protections whatsoever; they have in excess of 125,000 deaths directly attributable to occupational hazards. There's no labor unions. And those who argue for labor unions are summarily sent to the laogai and tortured.

There is an MOU, as you know so well, that dates back to the George Bush—the first administration on prison labor, and it's not worth the paper it's printed on because it requires U.S. investigators to submit any complaint to the Chinese authorities, and then they investigate and report back to us. There's no onsite inspections, no independent verification. And Chinese workers, as we know, get 10 to 50 cents per hour for work, and many are in sweatshop conditions dotted throughout all of China.

So if ever there was unfair trading practice, I think it is—and the exploitation of labor fits that bill. Doesn't that constitute labor trafficking?

Amb. CDEBACA. Thank you, Mr. Smith. One of the things that of course, with the Summer Work and Travel Program—and this is something that when I have been in Eastern Europe, especially Ukraine and Russia, that we've been hearing about some of these concerns.

At the end of the day, this is a program which I think, you know, millions of children, millions of students have been able to come in the United States over the last 50 years. We think that it's been not just a success story of U.S. public diplomacy, but had a lot to do with getting people behind the Iron Curtain to be able to understand who America was, who Americans were. And we want to continue that with the countries especially in Eastern Europe.

One of the things that the department has done, because we recognize that the young age and limited sophistication of some participants have contributed to a potential vulnerability for trafficking initiatives that are targeted at the participants—and so to minimize the risk, early this year we issued an interim final rule—it's April 25th of 2011—in the Federal Register which makes some changes to the program, sharpens the program as far as a pilot program for the six countries: Belarus, Bulgaria, Moldova, Romania, Russia, and Ukraine. And these are the six countries, frankly, that our law enforcement agencies and our Embassies and other had identified as those that should be of concern.

The program and the pilot is requiring a 100-percent pre-placement in jobs—no bringing folks over through the program, and then getting them jobs here; a full vetting of all the job offers; and enhanced monitoring.

But one of the things that the interim final rule explicitly did, because we thought that it needs to be in there in no small part—so then if someone brings someone over and does this, they might not just be violating the terms of the program, but depending on what promises or contracts were given, could be reached through visa fraud, fraud in foreign labor contracting, or even the trafficking statutes—is that no Summer Work and Travel participant can be put in any position in the “adult industry,” and they can't be put into domestic-servant positions in private homes. Both of

those are things that we certainly know make participants vulnerable to trafficking, and are basically a violation of the promise that the United States and the program is making to these parents overseas that their children, their students are coming to the United States to learn the best of us.

So we're committed to policing this program and to not tolerating any of these types of abuses within it.

As far as China is concerned, one of the things that we've seen in the last months in China is in the wake of their joining the Palermo Protocol is a little bit more of analysis from the Chinese academics, as well as some parts of the Chinese Government, the IMOAT—I-M-O-A-T, which is the inter-ministerial anti-trafficking coordinating body—looking at what they need to do to come into compliance with the Palermo Protocol. They have a way to go.

And we've talked to them about this; I've raised it when in Beijing. Especially, there's been a problem of labor trafficking because up until recently—up till just this year—men were not included in the definition of trafficking, and unofficial workgroups were not. If you were part of a work unit, then you could be considered a trafficking victim if you were a woman. But a man who is working in the underground economy would not have been covered by the trafficking laws.

So those cases that we've known about for the last 5 or 6 years—the horrible cases of the brick workers, the men in the blacksmith shops, the miners, et cetera, case after case after case coming to light—and having a lot of—even with the issues of being able to get the word out in China, cases that have gotten a lot of attention in China, those cases legally were not part of their definition of trafficking. So we've raised this with them, but we stand ready to continue to work with our Chinese counterparts on the law enforcement side especially as to what they need to do to address this.

One thing that we are seeing as far as some modicum of worker protection is for internal migration. The Chinese Government has been working with the International Labor Organization and others, so we're seeing a little bit more as far as materials, know-your-rights type of things, kind of like what we've talked about for workers going to other countries. But it's the West-to-East pattern of internal migration in China, even to the point of having it—you know, deck of cards with all of the horrible things that could happen to you when you're in Southeast China before anybody gets on a train.

But we certainly share many of your concerns, and we've raised many of these when I've had a chance to deal with our Chinese counterparts.

Mr. SMITH. Yes, just a followup: How difficult will it be for a corporation to live up to the spirit and letter of S. bill 657, the Senate bill in California, when some of or many of its feeder parts are made or manufactured in China, where—as Harry Wu has documented over and over again, the great laogai survivor who is now a great champion of human rights here in the United States—since there's no access?

And very often, a colonel by day is also the CEO of that particular corporation, and has the full protection of the government

and the People's Liberation Army so that it's very hard to penetrate that corporate veil. How—

Amb. CDEBACA. We think that the California bill will have a big impact. We've seen companies in China respond when there have been other issues often, whether it's lead in the paint or other adulterated materials. But this is something that—Mr. Cohen's point earlier about the wood in the guitar—unfortunately, sometimes it's easier to test that wood and see that it's an endangered tree; it's easier to test the animal product and see that it's from an endangered species than it is sometimes to look at a factory and see whether or not somebody was enslaved there.

So the level of inquiry that we hope that the California transparency act will enable us to proceed with—certainly, the hope is that we can put the freedom of a person at the same level as the pelt of some kind of exotic animal.

Mr. SMITH. Do you anticipate that the administration might suggest its own language that would parallel the California bill?

Amb. CDEBACA. I think that at this point, we definitely want to see how the California bill comes online. We want to be supportive of the effort. I think that we'd certainly want to work with you and others, if that was something that was under active consideration, whether for the re-authorization or otherwise. But at this point, we're very much looking to see what we hope is going to be the success of the California bill before we get into the middle of it, as it were.

Mr. SMITH. I will thank our two very distinguished witnesses for your testimony and for your leadership. And thank you so much.

I'd now like to invite our second panel to the witness table, beginning with Nancy A. Donaldson, Director of the International Labor Organization at the Washington office. Before joining ILO, Ms. Donaldson was Vice President for Dutko Global Advisors, where she was an Advisor to the ILO Washington office from 1997 to 2005. She was Vice President for Energy, Education, Technology, Trade, and International Issues at the Downey McGrath Group. Prior to that, she was in the Washington office, Director for Women's Action for a New Direction, and a lawyer in private practice.

We'll then hear from Neha Misra, who is a Senior Specialist on Human Trafficking and Migrant Worker Programs for the Solidarity Center, an international worker-rights NGO based in Washington, DC, and part of the AFL-CIO. She has worked for many years in international policy, advising on migration and human trafficking issues. She serves as a member of the Board of Directors for the Global Workers Justice Alliance, and as chair of the public interest committee for the North American South Asian Bar Association.

In addition to her position as Senior Specialist at the Solidarity Center, Ms. Misra also serves as Senior Program Officer in the Africa regional office. Her expertise on global trafficking issues was initially developed in Indonesia, where she was the Deputy Country Director and Program Manager for the Solidarity Center's Counter Trafficking Project. She worked in Indonesia for over 5 years, starting with the Solidarity Center as the Director of its Democracy Project.

Before assignment in Indonesia, she worked in Bosnia on post-war elections and democracy, and in the United States as Senior Attorney Advisor with the U.S. Department of Justice. While at DOJ, she also served as the President of the American Federation of Government Employees.

And finally, we'll hear from Julia Ormond, who is an internationally admired and successful actress, and has played roles in numerous motion pictures and TV shows, including "Legends of the Fall," "Sabrina," "The Curious Case of Benjamin Button," "First Knight," and so many others. And she was awarded an Emmy in 2010.

Julia Ormond has an inspirational record of advocacy on human rights issues, and has been strongly involved in the issue of human trafficking since becoming aware of it firsthand experience on the plight of trafficked women in Eastern Europe.

She also served in a number of roles in international NGOs, most recently as President of the Alliance to Stop Slavery and End Trafficking, or ASSET, an organization she founded in 2007. ASSET is an advocacy NGO dedicated to the systematic eradication of slavery chiefly through giving the victims of slavery a voice on their own. The group was the leading sponsor of the California Transparency in Supply Chains Act of 2010, which we discussed with the earlier panel, which tackles slavery and human trafficking by requiring companies to report on the sources of their supply chains.

Previously in 1999, Ms. Ormond also co-founded FilmAid International, which aims to inform and empower refugee communities through film. In 2005, she was named as the United Nations Goodwill Ambassador Against Slavery and Trafficking. She is no stranger to Capitol Hill, having previously testified in the House as well as before the California State legislature again on issues related to human trafficking.

So please, if you would begin first with Ms. Donaldson, Ms. Misra, and then—batting cleanup will be Julia Ormond.

**NANCY A. DONALDSON, DIRECTOR, WASHINGTON OFFICE OF
THE INTERNATIONAL LABOR ORGANIZATION [ILO]**

Ms. DONALDSON. Thank you, Mr. Chairman and Commissioner Cohen, and the Members of the Commission, for inviting me to testify today. I am representing the International Labor Organization, which is a specialized agency of the United Nations.

Each year, millions of people leave their homes and cross national borders in search of better prospects and greater security for themselves and their families. Ninety percent of all migrants are workers and their families. Migrants bring skills and initiative to advanced economies, to host countries. They also benefit origin countries, sending money home and transfer of technology and critical skills.

Today, we are here to discuss urgent problems often faced by vulnerable migrant populations and individuals—criminal trafficking and forced labor—and the actions that the ILO and others are taking to eradicate these abuses.

Migrants are vulnerable to exploitation and discrimination. In the extreme, irregular migration includes trafficking, smuggling, sexual exploitation and violence. As ILO's recent report highlights,

forced labor today is the antithesis of decent work, and a global problem affecting almost every country in the world.

Traditional slavery is still found in some parts of Africa, while forced labor or coercive recruitment is present in many countries of Latin America, parts of the Caribbean, and elsewhere. In Europe and North America, an increasing number of women and children are victims of traffickers who sell them into forced prostitution or sweatshops.

The ILO estimates that there are at least 12.3 million persons in forced labor today. Eighty percent, or 9.8 million people, were exploited by private agents. Most victims are poverty-stricken people in Asia and Latin America of those figures. Yet, over 360,000 women and men are in forced labor in industrialized countries—OSCE countries—trafficked for either labor or sexual exploitation. Some 56 percent of all persons in forced labor are women and girls, and children under 18 years of age make up about half, nearly half of forced laborers.

The ILO has taken up the issue of protecting domestic workers vigorously. Last year, the ILO International Labor Conference began consideration of a domestic workers' convention. It will be expected to take it up for the second final round in June of this year. We very much appreciate the strong support of the United States in working on the domestic worker protections, and also the OSCE.

One principal responsibility of the ILO is drawing up and overseeing international labor standards. Strong enforcement of labor standards worldwide, levels the playing field for all workers, including American workers and industries. In today's globalized economy, international labor standards are also an essential component for ensuring that the growth of the global economy provides benefits to all.

The ILO has pioneered the development of international standards prohibiting forced labor and for the governance of labor migration and the protection of migrant workers since the 1930s. Two of the eight core conventions among core labor standards set out prohibitions on all forms of forced labor. There are also two conventions, 97 and 193, that govern migration for employment. Also, in 1990, the U.N. International Convention on the Protection of Rights of All Migrant Workers and Members of Their Families was established.

The ILO has two specialized programs: the International Migration Program and the Special Action Program to Combat Forced Labor, which provides technical assistance to ILO countries and partners with the challenges of labor migration and forced labor. The ILO is promoting a global alliance with partner agencies, pooling their efforts to eliminate forced labor worldwide by 2015. The OSCE is a major partner in this endeavor, and we do a lot of things together.

ILO's International Migration Program supports ILO member states in combating discrimination against migrants and helping their social and economic integration. Currently, the program is engaged in 14 technical cooperation projects either funded by or implemented in OSCE countries, working to develop effective migration systems and policies and to strengthen government institu-

tions and educate migrants on their rights and the services available. ILO has been at the forefront of generating and sharing data and knowledge on these subjects to raise public awareness and increase pressure for action. ILO's initial body of research was seminal, as it provided the basic facts and figures on modern forced labor, raising the global pressure for policy change.

I would like to emphasize that improving data collection on these issues is of paramount importance. Significant gaps in understanding the quantitative dimension of forced labor and human trafficking remain. I will say that the U.S. law has brought forward more data collection, which we think is extremely important.

The ILO has developed and disseminated courses, guidances, training materials on key aspects of forced labor and trafficking. And cooperation between the OSCE and the ILO on research and training has helped our economic partners to access important knowledge and expertise.

The ILO assists governments. We work hand in hand with our 183 member governments in designing and implementing projects on the ground. Through our Decent Work Country Programmes strategies, the ILO works with employers, workers and governments to set out agreed national priorities in the world of work. Experience shows with—that with careful awareness raising, consensus can be built to include sensitive subjects such as forced labor among the core national priorities.

In Brazil, the ILO has been working with our social partners on the issue of forced labor and global supply chains. The abolition of slave labor and the worst forms of child labor are a key priority for Brazil and their national agenda for decent work. With grant support from the State Department, ILO worked with companies and continues to work with the government, companies and civil society to promote new understanding and strategies for engagement. The key objective is to strengthen the global alliance against forced labor by reducing the risks of trafficking and forced labor facing Brazilian suppliers and international buyers. And we work with seven tiers of suppliers just in Brazil sometimes.

I want to leave the Commission with three key points. One, good migration policies and the abolition of forced labor are challenges for every county, whether industrialized, emerging economies or less developed. We believe that true gains in the governance of migration and against forced labor must happen in a multilateral context.

Two, the ILO takes a rights-based approach to these issues. In that, we are very harmonious with this Commission. We are devoted to promoting social justice and decent work in recognizing human and labor rights.

Three, the governance of migration and forced labor deserves a multi-stakeholder approach. The ILO works with governments and its strong social partners to reduce irregular migration and end forced labor and ensure protection of workers' rights. We have enjoyed fruitful partnerships with G/TIP, DRL, and ILAB represented here today, and we respect and seek more ways to work with the Solidarity Center. We are dedicated to continue working together with our social partners and advocates to improve migrants' condi-

tions and to end forced labor and human trafficking around the world. Thank you very much.

Mr. SMITH. Thank you very much, and thank you for the good work of ILO over these many decades.

I'd like to now ask Ms. Misra if she would proceed.

NEHA MISRA, SENIOR SPECIALIST, MIGRATION AND HUMAN TRAFFICKING, SOLIDARITY CENTER

Ms. MISRA. Thank you, Chairman Smith and Commissioner Cohen, for this opportunity to testify today. I'd like to ask that my full written testimony be submitted to the record so that I can be very brief with you—

Mr. SMITH. Sure.

Ms. MISRA [continuing]. And we can get to some questions.

Mr. SMITH. Without objection, so ordered.

Ms. MISRA. OK. The Solidarity Center is an International Labor-Rights Organization working in over 60 countries around the world, and really appreciates the U.S. Helsinki Commission focus in this hearing on trafficking for labor exploitation and the focus on abusive, unethical and illegal business practices that contribute to human trafficking and forced labor. We've seen firsthand how violations of worker rights and the lack of labor standards and protections for workers increase their vulnerability to human trafficking. But we still see in the media and when you talk to the public about human trafficking, many times you'll hear people talk about it as the crime of organized syndicates, criminal gangs and underground criminals, which, of course, is the case in many instances. But we are also seeing increasingly around the world trafficking for labor exploitation happening in the context of legal structures of employment and business, with the traffickers being employers and labor recruiters, and not gang members or members of organized crime.

And so, that's what I want to focus on today in my testimony. While trafficking for labor exploitation has many facets, several major trends in our globalized world endanger workers, particularly those at most risk in the need and those in the most need of protection. In developed economies like the United States and Europe, we're seeing an increase in the cases of trafficked immigrant teachers, nurses, construction and service-sector workers, all in destination countries with valid visas, shining a light on the structural failures within our economic and employment systems that increase immigrant workers' vulnerability to severe forms of labor exploitation. Multinational corporations, employers, businesses, labor recruiters and others exploit these structural failures.

Of particular concern to us—and Chairman Smith, you talked about this in the Senate, and in the earlier testimony we heard some about this—are temporary labor-migration schemes. Around the world we hear these referred to as guest-worker sponsorship or circular-migration programs. But these are increasingly being promoted by governments around the world to fill the demand for cheap labor. In practice, these schemes create a legalized system and structure for employers to exploit workers and increase workers' vulnerability to human trafficking and other forms of severe labor exploitation.

Such programs have been plagued by a long history of abuses, ranging from labor violations to visa fraud, debt bondage, involuntary servitude and trafficking for labor exploitation. This includes, among many others, the U.S. H-2 visa guest-worker program. And we heard testimony from our colleague from the Department of Labor about the H-2A, but I would like to emphasize the H-2B visa program; seasonal agricultural programs in Canada, such as the Canadian-Guatemala Program; seasonal agricultural programs in Europe such as Moldovan migrant workers going to Italy; and the kafala, or sponsorship system, in the Gulf Cooperation Council states.

In my written testimony, I go into detail about some of these abuses, but we already talked about that, so I'll skip over that, but just want to emphasize two common themes that we see come out of these temporary-visa programs.

One of them, we talked about a little bit earlier is the role of foreign-labor recruiters or employment agencies sometimes also called foreign-labor contractors, and taking advantage of the lack of labor rights and inherent structural failures in these programs to exploit immigrant workers. The other theme that we see is the need to provide greater protections to workers and the opportunities for them to report abuses and advocate for their own rights.

We've already talked a lot about the issues of debt bondage as some of the problems of foreign labor recruiters. I want to get to some of the solutions. The Solidarity Center is a proud member of the Alliance to End Slavery and Trafficking, or ATEST, which is a coalition of 12 organizations including Julia's organizations and many groups that are currently in this room. And we have some suggestions for the reauthorization of the Trafficking Victims Protection Act of 2011 that would help increase regulation of foreign-labor recruiters that we think is key to ending trafficking.

In 2008, as you know, Chairman Smith, there were actually some of these provisions included in the House version of the bill. And then unfortunately it didn't pass the Senate, so it didn't end up in the final version. But we would really like to see it back in the 2011 version. And what we've seen is a number of service providers in the United States have said that greater regulation of foreign-labor recruiters and eliminating debt bondage would go a long way to preventing human trafficking in the United States.

So we're recommending, among many recommendations, first of all, strict elimination of fees, that no foreign-labor contractor agent or employee of a foreign-labor contractor should be allowed to assess any fee whatsoever, including visa fees, processing fees, transportation fees, legal expenses, placement fees and other costs to any worker. And employers, if they paid this to the foreign-labor contractor, should not be allowed to pass this on to workers.

The other key element that we would like to see in the TVPRA of 2011 is greater disclosure, that workers are in a written contract both in English and the primary language of the worker, the written contract disclose fully the terms and conditions of work; and the details of that are in my written testimony.

Senator Cardin asked Ambassador CdeBaca earlier about some of the role of the consular officers. And I have to say that that pamphlet that was mandated in 2008, TVPRA, has made a great dif-

ference. We have a number of service providers who specifically say that workers in the H-2A program and others who have been given T visas to the United States say they found out about services through that pamphlet. And so we think greater disclosure in workers' contracts itself would really go a long way in helping to prevent trafficking.

We also think that registration of foreign-labor recruiters is key. And our recommendation includes administrative procedures for the Department of Labor to register foreign-labor recruiters and that employers should be required to use a certified, registered labor recruiter or face penalties.

The last two pieces that we'd like to recommend are enforcement—I mentioned that we recommend an administrative procedure within the Department of Labor, but that also workers need to be given access to civil remedies and rights to access U.S. courts to be able to enforce their rights.

And then finally, accountability; that workers must be protected from retaliation and employers must be held accountable for the actions of foreign-labor contractors that they hire. One of the big things that we are seeing as organizations that work on human trafficking for labor exploitation in the United States is that the threat of deportation is unfortunately being used against workers to stop them from reporting violations and from getting benefits of the T visa program. And we've actually seen a number of cases recently in the United States where it's taken years for workers to be identified as trafficking victims and get T visas, and that threat of deportation being used against them in keeping them suppressed.

And so we would also like to recommend a change in the 2011 TVPRA that provides temporary immigration relief to whistleblowers, to workers who raise the alarm about cases but that it might take them some time to be able to be found as victims of trafficking, so that during that time, they don't have to fear deportation, they don't have to fear threats; and instead, there can be an investigation done about the abuses that they're raising.

Just the last thing that I'll mention is—I know Julia's going to talk a lot more about supply chains, so I'm not going to focus a lot on that—but that when I was looking at the—when I was asked to testify today and looking at the topic for this hearing, I thought it was important to mention another major trend in the global economy is the use of trafficking for slave labor and slavery victims all along supply chains; and that when employers, whether they're buyers, multinational corporations or others, demand cheap labor or unrealistic pricing structures, they should not be surprised to find severe labor abuses, including slavery in their supply chains.

Similarly, when employers contract out or hire unregulated subcontracted suppliers, they should not be surprised to find that there are trafficking victims in the production lines. And when employers refuse to enforce or claim that it is too difficult to monitor adherence to core labor standards in their supply chains, they will find forced labor, debt bondage and other severe forms of labor exploitation. And Julia, I know, will talk about the California law. ATEST is also advocating that it be included nationally in the TVPRA. But the one thing that at Solidarity Center we'd like to

point out is that we think that it needs to be looked at about how the United States does investigations abroad of products that are made with forced labor or slavery.

And just as an example, the Solidarity Center had a report in 2007 called “The True Cost of Shrimp,” which looked at the seafood-processing industry both in Thailand, in Bangladesh. And we found severe cases of forced labor, human trafficking, debt bondage, especially Burmese migrant workers in Thailand. As a result of our report, the U.S. Senate asked ICE to do an investigation about what was in our report. And so ICE did what they call a “jump investigation,” and they went to both Thailand and Bangladesh to investigate.

The problem is that they have to notify, of course, the Thai Government that they were coming. And our partners on the ground reported that basically the supply chains are completely cleansed. They had 2 weeks’ notice to know that they were coming. The books were changed. A lot of the Burmese migrant workers were sent off. And we have a lot of anecdotes I could tell you about that, but that basically ICE said to us that they had to say that they did not find anything that was in our report there. And it was basically because they had to let the government know.

And so we’d like to advocate to try to find a better way to do these investigations so that we ensure that products made with forced labor, human trafficking and slavery to not enter the U.S. market.

Thank you so much for this opportunity to testify. I look forward to your questions.

Mr. SMITH. Ms. Misra, thank you very much for your testimony and your work. And now, Julia Ormond, you’re recognized.

JULIA ORMOND, FOUNDER AND PRESIDENT, THE ALLIANCE TO STOP SLAVERY AND END TRAFFICKING

Ms. ORMOND. I learn something every time at these things. I’ve learned so much from the previous testimonies. Thank you, Mr. Chairman, and distinguished Members of the Commission and staff. I initially engaged about the issue of slavery and human trafficking shocked and spurred into action by reports of sex trafficking. Nothing then seemed to me more heinous than the repeated rape and violence that its victims endured.

The wide variety of the faces of slavery that I met—the first were California-based. Other travels around the world took me to Russia, Ghana, Thailand, Cambodia, India, and Europe, and provided me with a creepy and shocking perspective of how slavery pervades my own life, how I am unwittingly connected to it and ultimately connected to its systemic violence. People often ask—it was a question that came up—where in the world is this worst? My answer is always in my home.

It’s simply not possible to sit easily in Los Angeles and forget the enslaved children I have met, children that I have walked away and left to an uncertain fate. And what keeps me up at night, what haunts me, are all of the victims’ stories. I’ll never forget the girl who crawled out of an eight-floor window for fear of her life in sex slavery. But I can equally never forget the child enslaved in the fishing industry, who jumped ship into the Thai Sea to float on a

barrel for 2 days and a night before being rescued because that was his safest option; or the child who was chained, whipped, and scarred for life while maybe working on our carpets; or the child soldier forced to burn his village, kill his mother, and rape his sister for someone else's war; or the enslaved garment worker making my clothing or the footage of a Mayan agricultural slave in Florida picking my tomatoes. These people are no less deserving of all of our compassion than those forced into sex slavery. All victims of trafficking and slavery deserve our attention and our commitment.

In 2007, I founded the Alliance to Stop Slavery and End Trafficking, otherwise known as ASSET. ASSET's an advocacy organization dedicated to eradicating slavery and trafficking through amplifying the victim's voice and supporting systemic solutions. I have come to define enslavement as when one person completely controls another person, uses violence or violent threat to maintain that control, exploits them economically and pays them effectively nothing. Trafficking is a process of enslaving someone.

Under the tenure of Ambassador CdeBaca, the 2010 Annual Report to Monitor and Combat Trafficking in Persons stated that more people are trafficked into forced labor than commercial sex. Yet ask any member of the public what proportion of this issue is sex trafficking, and the usual response is about 80 percent. The International Labor Organization has recently stated that for every one person forced into the sex trade, nine people around the world are forced to work.

The forced labor of these victims taints many of the products that we purchase and rely on every day. To quote the TIP report: It is not possible "to get dressed, drive to work, talk on your phone, or eat a meal without touching products tainted by" slavery.

The United Nations has repeatedly stated that trafficking has shifted from trafficking weapons to trafficking in drugs to trafficking in people, and now into children. The United Nations Office on Drugs and Crime has cited that the profits from trafficking in people into Europe has now overtaken the profits in the trafficking of drugs into Europe. Yet, in the United States we spend more in 1 day still fighting the war on drugs than we spend in an entire year fighting the trafficking of people.

So we all have a role to play in supporting the solutions, and solutions, there are many. Every single place I travelled to, I specifically sought out solutions that just await the resources to scale to meet a drastic need.

In order to resource the solutions, however, it's vital to get the story straight. And media can play a crucial role. Sex will always sell, whether the story is good or bad. But we need the media to cover the issue fairly, proportionately. We need media outlets to set aside deliberate resistance of losing advertising revenue, and articulate how businesses can use their influence over supply chains to recreate the map to illuminate the worst areas of poverty in the world where slavery and trafficking can take hold.

As advocates, we need to do a better job articulating to the public the enormous challenges that today's complex supply chains present to business. We need to articulate that the CEO is most often not the criminal, that this is criminal activity tainting their supply chain most often around raw materials, but as we have

heard today, on many other points of intersect along the supply chain, just as shoplifting is criminal activity occurring at the other end of the supply chain, at the point of purchase.

Only by rediscovering the supply chain and influencing each step of it by encouraging best practices can we implement real solutions, can the NGO work with the CEO. A supply chain without a policy of best practices is like a computer without virus protection: You will most likely become infected with a virus or tainted by labor violations.

We need companies to come to the table and collaborate in finding better solutions to work with governments and the NGO community who can offer victims safety and rehabilitation, and can assist vulnerable communities. We cannot accurately and efficiently access victims without the assistance of companies that influence infected supply chains.

I think one of the most crucial pieces that I've learned is that this is a verification of a process: Whether you are growing, picking, selling tomatoes out of Florida, or purchasing couture clothing, you will find slaves. The point is that the better your practices along the supply chain, the less you will find them, and the better your practices, the better your response will be at that moment.

ASSET's solution was to be primary sponsor of the California Transparency in Supply Chains Act of 2010, authored brilliantly by Senator Darrell Steinberg, who I have to thank deeply. This law came into effect January 2011, and requires major retailers and manufacturers operating in California with over \$100 million in worldwide gross receipts to publicly disclose their efforts to eradicate slavery and human trafficking from their supply chains.

This law will apply to just over 3,000 companies, around 4 percent of California companies who represent an umbrella of approximately 87 percent of economic activity in the State. This new law is one small step in a long journey forged by others that ASSET joined.

I hope if it's applied well that it will represent a watershed in the sharing of knowledge, and will enable active consumer, investor and other stakeholder engagement, will encourage a pooling of resources, and will get us closer to concrete, measurable results.

The California Transparency in Supply Chains Act will for the first time enable consumers to choose to support businesses that are creating best practices, using their purchasing power to encourage them to bring their expertise and knowledge of supply chains into the equation. Investors can implement corporate governance and social responsibility practices, providing incentives to companies to elevate human rights and place them right at the heart of their strategy.

In one sweep, it'll educate companies unaware of a possible problem, not just of their own potential vulnerability but also the devastating impact of using company influence to drive profit up by forcing the prices of raw materials down to a level where labor violations and criminal activity and suicide are the outcome for the raw-material work force.

It will create an environment where those companies already doing the right thing can more robustly and publicly turn it into part of their brand identity. And for the next step in the process

to occur, Congress should enact Federal legislation disclosing the presence of slavery, trafficking and all forms of forced labor in the corporate supply chain.

Post-globalization, where I have heard that the public trusts brands, identifies with brands more closely than government—the supply chain is the modern vehicle through which today we can spread liberal democracy throughout the world.

Thank you for listening.

Mr. SMITH. Ms. Ormond, thank you very much for your testimony, for being here again, and above all, for your advocacy that has led to enactment of this very important landmark legislation.

Let me just ask, if I could, Ms. Donaldson, you know, the assumption of goodwill or the potential of goodwill obviously undergirds the multilateral framework. Obviously most, if not, all United Nations, ILO, any convention always has a problem on the enforcement side. That's no fault of your own; it's just the way it works. But I think you said consensus can be built. And I'm wondering if the Transparency in Supply Chain Act of 2010 might not fit best into a practice that the ILO could include in its framework of best laws that needs to be shared.

One of the important aspects of when we did the Trafficking Victims Protection Act was to share and invite best practices so we could improve our own law but also to give it out liberally. And I remember giving a copy that John Finerty on our Commission staff translated into Russian to a member of the Russian Duma, who then got some of it enacted in the Russian Duma. We want plagiarism, in this case [laughter.] So I'm wondering if the ILO is looking at this as a best-practice law that needs to be shared with the world, including the 14 agreements that you—or the work you have going within the OSCE and elsewhere.

Ms. DONALDSON. We are very interested to see how this law is implemented. And you know, we tend to see California as another country, just another economy. And it's very hard to be a big company anywhere in the world and not have California as one of your markets. So in a way, it may not need to be passed in every State.

But yes, we want to share good practices. And I might say, I see this as part of a trend. And it's also because the USDA guidelines that have been issued by the Agriculture Department on best practices in agricultural settings—I see in my conversations with companies that across the board, there are different things coming up. And maybe the most intensely discussed right now is actually around the conflict minerals.

But I hear companies, big ones, saying, well, the due diligence, that framework that the OSCE has raised, maybe we should use this in the context of forced labor or child labor. So it's creating a lot of cross-fertilization. But I do have to say the California law, I think, kicked it to another level in terms of more recent legislation.

So thank you.

Mr. SMITH. Would you want to respond on that?

Ms. ORMOND. This was a little law that just, I feel, kind of got us out of an impasse. It was a moment that we could capitalize on, as an NGO, thanks to the work that had been done by the ILO. I think we actually did take some of your practices [laughter] we took an amalgamation of best practices, but the law is designed in

such a way that allows the corporation to come in with what businesses see idiosyncratically within their own supply chain. Each industry has different, idiosyncratic problems so the NGO community can't really sit from the outside and dictate to them. Plus, they'll bring a totally different mindset and innovation to finding solutions.

So the law is designed in such a way that we make suggestions as to best practices, we make suggestions in terms of talking to the ILO, but we also open it up to say, just—well, tell us what you are doing so that we can rate it.

Mr. SMITH. Commissioner Cohen does have to leave, so I'd like to yield to him for any questions.

Mr. COHEN. Thank you, Mr. Chairman. I have a hearing at 4—another Ranking Member—but I want to ask Ms. Ormond, who were the main opponents to your law in California?

Ms. ORMOND. Thank you for landing me in it. Well, let's put it this way: There was not a single business in California that supported it. And I think we were very lucky to have a Governor who didn't veto it, and who stood up and asked if this is a job-killer, and I don't think it is. I think it's a lifesaver.

I think there are challenges. I don't want to presume that people go into it with malicious intention; I think very often, there are stumbling blocks that because we're not discussing it because there's lack of transparency, we can't get to the solution. So within different industries, individual brands and companies aren't actually sharing with each other what they're learning.

So I think as this—the first step is to sort of move industries—like, you have conflict minerals; you have the tech industries coming together to work on that. And in a parallel, you have people sharing best practices around cotton.

If we don't move it forward in terms of raising it up, then I think it really has a devastating effect. I think the California Grocers Association—

Mr. COHEN. They opposed the law and fought it?

Ms. ORMOND. Yes. And it took me by surprise because I thought, well, isn't this good for California? Can't they verify more easily than somebody who's reaching out to the developing world? And I think we just haven't really gotten to the bottom of how they deal with undocumented workers. I think it made it difficult for them legislatively to answer to that, because we didn't really deal with it.

Mr. COHEN. Did the chamber or any other organized groups of business, manufacturers, et cetera—did any of them come out and work against it?

Ms. ORMOND. Yes.

Mr. COHEN. They did? [Laughter.]

Yes? [Laughter.]

Ms. ORMOND. Yes. They did. I mean, we went back and forth. We had support from consumers and consumer rights—we had a terrific support from socially responsible investment firms that represented \$42 billion. And I think what we saw emerging was, the consumer is one stakeholder; the next consumer to engage through apps and writing letters and Internet and viral is the employee. Employees work better in an environment that they're happier

with; they're more productive. You can go to the investor; you can go to shareholders with the proxy votes.

And what we want the consumer to understand is that they are not—they are disempowered as an individual to a certain extent. But you rally them as a force together, they will drive what happens down the supply chain because they will demand that supply chains be cleaned up, or they will leave that brand and go to someone who is doing a better job.

Mr. COHEN. Was the vote close on your bill?

Ms. ORMOND. Sometimes. I mean, different—there were—

Mr. COHEN. Stages.

Ms. ORMOND. Different stages that we had to go through. What I have always loved about this issue is that it's a bipartisan issue. It's something that I will say in terms of the coalition, a task that we work on—it's bipartisan. And it has to be, for longevity.

What I do want to say about the bill is, I think it provides an engagement point for the consumer to actually physically take action. There's a lot of awareness from an employee standpoint people can have; one little Web site that we participated in setting up has now sent off 97,000 emails to CEOs asking them, what are your practices? And they've got until January in 2012 to say "no response."

And I also—if I may, just a bit before you leave, I want to talk about how when a supply chain is tainted, it may be tainted by very few individuals. But there's one example—there's a terrific documentary called "End of the Line" which looks to the decimation of the fish population. Fishing is an industry that has a lot of issues. One boat coming in with two loads of cargo—I wrote it down somewhere; I want to get it right—one of those boats can come up with—I think it was the entirety of Taiwan's quota for one fishing season.

So one or two criminals can decimate and destroy a supply chain. And I think that's what we're seeing in fishing; we're talking about having 20 to 50 years left of fish. It isn't those that have been given a quota and are meeting that quota that are causing that decimation; it's illegal fishing. It is illegal deforestation that is causing huge environmental damage. And if we don't look to it, I believe that that is where this issue feeds all the way through to being an international security issue.

Mr. COHEN. I thank you for appearing before us, and your work, and the other panelists as well. And I wish I had more time to stay here, but I've got an obligation. I've learned a lot. As you say you've learned, I learned from this Commission. And there's no greater human rights champion than the Chairman, and I will work with him on legislation to improve our work product.

You asked me earlier, do we have an audience? Well, you have a great audience here with Chairman Smith.

Ms. ORMOND. Thank you.

Mr. SMITH. Mr. Cohen, thank you very much, and thank you for your leadership. Let me just ask a couple of other questions, if I could. And I think Commissioner Cohen's comments, or one of your comments was very well-taken about a corporation—what corporations don't do business in California. I mean, it's just about the world.

But I do think there could come in 2012 some real issues of faithfulness on the part of the corporations. And so the question would be, how do we ensure compliance with the mandates of the California law? Would the Federal law fill some gaps that perhaps dropped off as the legislation was making its way through, and would the additional firepower, if you will, of a Federal statute further prioritize and ensure that these corporations are, indeed, being very faithful?

We found even when we passed the Trafficking Victims Protection Act, I had to hold an oversight hearing right here, 9 months later, to ensure that major provisions where it said you shall set up a TIP office, you shall establish a T visa—nothing in it said “may”; it all said “shall.”

And even here, with the traditional separation of powers and the checks and balances that are obviously a very good thing, we had to have an oversight hearing—and I chaired it—to ensure that the major revisions were carried out. Because delay is denial, and I would be very worried that some corporations will game the system, be inadequate.

So what are the advantages of a Federal law? And do other states have to pass a law, or would that be—I mean, what corporations, again, like I said before, are not doing business in California?

Ms. ORMOND. Well, one of the things that we do have to do is get the list of who the 3,200 companies are from the Attorney General’s office. And I think that’s something, for instance, that you would want to put into Federal law, that automatically the list of who is covered gets made public so the NGOs aren’t scrambling to do that math.

There’s a number of things. I mean, for me what the bill does is move us forward a step so that for instance we pave the way for a commission to come in. Prior to the bill, the commission couldn’t verify it, or certify anything. So it wasn’t possible to do it.

But I also think that we have to kind of slightly change the mindset. I want to talk about fair trade a little bit, and how fair trade—I should rewind a bit—the greatest and most effective part of prevention is the alleviation of poverty, and providing people with alternative solutions. And I feel that’s what fair trade goes in and elevates the process for people; they create communities who work together and keep each other on track. And they then give a premium to the farmers once they have helped them get them to the level of being an export.

And mangos out of Haiti would be a great example—the mangos from Haiti that are sold in Whole Foods may well be something that elevates Haiti out of a really tragic circumstance. And I think we need to move toward that.

What I also like about the California bill—people talk a lot about enforcement—the consumer’s going to enforce it. Out of 3,200 companies, say, there are 50 who comply, and the rest don’t. You’ve got 50 brands for people to switch to. You don’t have to wait for the Attorney General to do anything. You’ve already clarified who’s doing great work and who doesn’t.

And I think that the Federal bill will work. We’ve—all the way through we had a collaborative approach to business, and that’s the only way that you could get to the solutions. It can’t be done any

other way. And it will be fair and it will be reasonable and it will be doable for business.

Mr. SMITH. Yes, thank you.

Ms. MISRA. I'm not an expert on this as Julia is, but I've heard a couple of things that I think are interesting. One, we've heard that the U.S. Chamber of Commerce is not opposing a Federal bill on this, because they do want to see kind of the playing field leveled in the sense that it would apply everywhere in the United States and not just in California, which is an interesting and surprising result from this. And I've also just been receiving a lot of emails from people about trainings that are already popping up. The University of Delaware is doing a training for sourcing managers on the bill, and so there are already companies getting ready in figuring out ways.

And then just from our perspective, we're an allied organization of the AFL-CIO, and we've already had conversations with unions in the United States about kind of taking the role that Julia's saying on consumers and holding people accountable. We know who a lot of the big players are in the sectors that we know that there's slavery, and sort of kind of start targeting them and making sure that that's happening. And, hopefully, it will trickle down.

Mr. SMITH. Yes.

Ms. DONALDSON. Just two observations. I think we are going to see a real mix. I've seen legal opinions online where the lawyers—corporate lawyers say, well, the way you could interpret this is, you just have to say what you were doing on monitoring forced labor, and you can just you're not doing anything in particular and that's how to suffice the law. And so you may see some of that.

I think that's going to be difficult because of the reports, like the reports required by the TVPA, which say, well, these are countries where we think there may be risk of problems. It's a little harder if you're sourcing from those countries to say, well, there's no problem in our supply chains that we've ever seen, and that takes care of it.

So there's no question that interaction between State and Federal law is important. And I guess what I would say, we don't take a position on particular laws, but we are collecting best practices. We look forward to seeing what happens in this one. And I do think that the mix of laws and strategies going on is having a really dynamic effect.

And I will say one thing. Once companies leave denial and go into "How could we do it?" and then they move to, "We have to do something"—when enterprise and its ingenuity comes into play, amazing things happen. And I have to say, I'm getting excited about watching the companies that are at the front end of this, because they're solving problems that no one else has quite seen, and that's what we want more of. And I do think it's possible that that virtuous circle, spurred on by these different laws together, and maybe some Federal laws as well, is going to create the process, is creating a process that we can partner with each other. Because no one company can solve these problems, and no one country, and that's why we say we have to really work together. And the activists have an irreplaceable role.

Thank you.

Mr. SMITH. Let me just ask you with regard to your deadline or your goal by 2015 of eliminating forced labor worldwide, who on the board would make the decision whether or not to incorporate the new California law into a best law practice that needs to be looked at by other countries? It seems to me that if the U.K. and other countries were to—the House of Commons passed a similar law, the House here, obviously, and the Congress—it would add an enormous pressure not just for reporting, but for accurate reporting, because the Web site would be scrutinized by not just California and the NGOs that are so concerned, like Julia Ormond's group and yours, but it would be a—it seems to be more hands pulling on the oar, the greater that ship will move and forced labor will be eradicated.

Who makes that decision?

Ms. DONALDSON. Well, ultimately our body of countries and the international labor companies pass standards.

Mr. SMITH. Right.

Ms. DONALDSON. But we can do things much faster than that because it takes time and consideration, to pull together best practices. And we are asked to advise countries all the time on how they might solve those issues. And so I'd be happy to come back and let you know exactly what we are doing on that, because I would—I'll inquire.

Mr. SMITH. Is it something that if we were to put together a letter from Members of the House and Senate asking that the ILO look to—both on a fast track and as—you know, 2015 is not far away—to look at bringing on line this very valuable—and I would say there's nothing little about this, Ms. Ormond, as you said. This is huge. And one State the size of California could make all the difference in the entire world. But if you could, you know, we would—we could put together a letter that would try to get you to adopt it as a best practice, if you thought that would be helpful.

Ms. DONALDSON. Thank you.

Mr. SMITH. Let me just ask Ms. Misra with regard to regulating foreign labor recruiters. I chaired a hearing some years back when we discovered in the 2003 act, we put provisions in, in 2005, when we learned that U.S. corporations were often complicit, either indifferent or there was woeful ignorance, which is two different ways of being complicit, not wanting to know.

And in Iraq, I asked, a number of questions at two hearings that we held jointly with the department, with the Armed Services Committee, about labor recruiters, particularly in Jordan, bringing in all these people who were slaves working with U.S. taxpayer money. And we keep getting assurances that it's been fixed. I'm not convinced. I'm wondering what you think, whether or not that has been fixed, if you could.

Ms. MISRA. Thank you. We're still hearing stories that it has not been fixed, and not just in Iraq, but also Afghanistan, that Jordan's being used. We've heard particularly of Nepali and Bangladeshi workers. And then it's also been very interesting with the Arab—

Mr. SMITH. They were the same ones who were exploited previously and that we brought attention to.

Ms. MISRA. Exactly.

But it's also very interesting now with the Arab Spring and the numbers of people who have been talking about the refugees that are crossing the border from Libya and other places, but there's huge numbers, as you know, of migrant workers who are in Bahrain, who are in Syria, who are in Libya and other places, and so their fate right now is very interesting. And a lot of them are being told by the labor recruiters that brought them over there, well, there's nothing that we can do now, and they're stranded. And so it's quite interesting.

And just the global economic crisis: In the United Arab Emirates for example, there's large numbers of Indian migrant construction workers who are stuck in the UAE; the jobs dried up because of the economic crisis and labor recruiters are refusing to send them back, and so a lot of them are just living in camps.

Mr. SMITH. With regard to the Transparent Supply Chain Act, I know how Julia Ormond feels. Do you feel that there needs to be a Federal law?

Ms. MISRA. Absolutely, yes.

Mr. SMITH. I know you had some recommendations, but the biggest problem I think we might face would be a Senate 60 votes that might be hard to procure.

Do you have any recommendations on where it should be? Should it be in the TVPA reauthorization? You may have mentioned that earlier.

Ms. MISRA. Yes. The coalition that we're a part of, ATEST, is recommending that it goes into the TVPRA. We think in some ways that might be a little bit easier to have it as part of the package. But also, a stand-alone bill, we would support both. And so, you know, we've been having a number of conversations with different Senators and different Congress people about—

Mr. SMITH. Have you found—and I did ask Ambassador Luis CdeBaca earlier whether or not the administration would present a model piece of legislation along the same lines as California.

Do you think that might be forthcoming?

Ms. MISRA. I haven't heard it coming from the administration itself. I have heard of several Representatives in the House that are putting that forward, and then our coalition, as I said, is supporting it. But Julie would know that more specifically.

Mr. SMITH. Well, we hope the two meet.

Ms. ORMOND. I would say—I guess what I would just add is that I—in all honesty, I think the jury's still out as to the best place for the bill, whether or not it be something that's folded into TVPA afterwards. But currently language that is being kicked around in terms of a Federal bill is placing it under the auspices of SEC.

And I think in terms of is it worth doing nationally, is it worth doing as a Federal—I think the Federal bill gives it more teeth and raises awareness of it throughout the United States, and then the United States takes a leadership role.

But we currently don't have the list from the Attorney General. So we need to run the figures again. Because if you've got 3,200 companies in California and nationally you would have 3,201, it would be nice to know, is it just once more? Can we just go straight to the EU?

And I just want to say that it isn't a perfect silver bullet. It's a starting point. And I think it does remain to be seen how the community that works on this responds to it and gets imaginative around it. But there definitely are stumbling blocks. There are stumbling blocks around conflict minerals and rare Earth minerals that only come out of the Congo. There are stumbling blocks in terms of human rights in China and places we can't get in. But I think it kicks the needle forward and challenges business to help us come up with a solution, and don't leave the table until we've made it.

Mr. SMITH. Thank you.

Yes.

Ms. MISRA. May I just say one more thing also? Just jumping over to the foreign labor recruiter provisions, since you're talking about national versus stand-alone bills and folding into TVPRA, I know there's been some discussions about having a separate bill on regulating foreign labor recruiters, and I really want to urge you and the House of Representatives to consider folding it into the TVPRA, because when it is a separate bill, it gets caught up a lot in comprehensive immigration reform and questions of that. And we think, while those are important questions to address, if we address foreign labor recruiters from the perspective of it being a trafficking problem and being able to address it in the TVPRA, we may be able to get a lot further than if we had it be a stand-alone bill that kind of got caught up in the comprehensive immigration reform. So—but thank you for letting me jump that little piece—

Mr. SMITH. No, if you could answer, because you worked extensively in Indonesia and elsewhere—

Ms. MISRA. Yes.

Mr. SMITH. How do you recommend we pierce a place like China, where a person even doing investigations into this kind of heinous activity could land themselves into prison for 10 or 15 years and be subjected to torture? Even the corporations often do a "see no evil, hear no evil" mind-set about the sources of their materials, because they don't want to be kicked out, they don't want their industry nationalized and they don't want to face potential jail time.

Ms. MISRA. Absolutely.

Mr. SMITH. I'm wondering if on the Web sites might there be a big gap when it comes to China especially?

Ms. MISRA. Yes, and I wonder about that too. I will say, the Solidarity Center has a China office that we call where we specifically work on worker rights issues in China, and so I'm not the expert on that.

But I will say one of the things that we are seeing is that we're increasingly seeing worker actions. You wouldn't necessarily call them the same that—as you see in the United States as strikes and other things, but we are seeing workers who are having many 1-day strikes, taking to the streets, demanding more rights in the factories where they're working. And we really think that the United States really needs to be supporting those efforts that we are seeing of workers trying to speak out for themselves and enforce their own rights and do more in that regard. And I know our office would love to come talk to you more about that.

Mr. SMITH. Thank you.

Would anyone else like to add anything before the hearing concludes, Ms. Ormond or—yes.

Ms. DONALDSON. This is on an earlier subject, but I thought I could just mention one of the things that ILO's been doing recently—I think it was maybe in December—we had a conference in the Gulf States, and it was primarily focused on Embassy staff and economic officers from various Embassies. And we were—I think we were looking in particular in the labor trafficking issues from Nepal. But it was a very interesting way to have countries—and I wouldn't be surprised if the United States was involved as well, but other countries there as well—to develop a network of representative officers to work with each other to spot illegal-labor processes. It was very productive, so we're looking at how to do that in other places, too. And so the requirements that have happened as they were discussed, and Ambassador CdeBaca was talking about, just to let you know, that's something that can be built on, because if that's their responsibility and they're talking to counterparts, then it creates a different level of looking at it.

Mr. SMITH. Is there anything else?

Ms. ORMOND. Just to say thank you.

Mr. SMITH. Thank you.

I want to thank our very distinguished witness. I do believe that S. 657 is an historic bill that will have overwhelmingly positive consequences. So, I thank you, Julia Ormond, for your extraordinary leadership in crafting and using your persuasive powers, which are very real and compelling, to get that legislation. And I think you gave great, I think, accolades to the Senate, sponsored the President Pro Tem. And I think that was a very—you know, it does take a lawmaker, but it does take people just like you and our two other distinguished witnesses to make all of this happen. So I thank you sincerely for your extraordinary leadership.

Ms. ORMOND. Thank you.

Mr. SMITH. The hearing is adjourned.

[Whereupon at 4 p.m. the hearing was adjourned.]

APPENDIX

PREPARED STATEMENTS

PREPARED STATEMENT OF HON. CHRISTOPHER H. SMITH, CHAIRMAN, COMMISSION ON SECURITY AND COOPERATION IN EUROPE

Welcome to today's hearing, part of the Helsinki Commission's ongoing efforts to combat human trafficking in all of its aspects. I had the privilege of chairing the first Commission hearing on trafficking in June 1999. Today our attention turns to labor trafficking, a modern-day form of slavery exacerbated by the global economic downturn. As with all forms of trafficking, we must never lose sight of the victim—the truly human face of men, women and children caught up unwittingly in this multi-billion dollar criminal enterprise.

Having just returned from an international conference: "Building Bridges of Freedom: Public-Private Partnerships to End Modern-Day Slavery," I am acutely aware that, to be successful in combating the scourge of human trafficking, we must strengthen the cooperation between governments and the private sector, particularly with regards to labor trafficking.

When I first introduced the Trafficking Victims Protection Act in 1998—a landmark bill that was signed into law two years later in 2000—the legislation was met with a wall of skepticism and opposition. People both inside of government and out thought the bold new strategy that included sheltering, asylum, and other protections for the victims, long jail sentences and asset confiscation for the traffickers, and tough sanctions for governments that failed to meet minimum standards, was merely a solution in search of a problem. I vividly recall raising the trafficking issue at a gathering of parliamentarians meeting in St. Petersburg, Russia in 1999 and being met with a similar reaction.

Each year tens of thousands of victims are trafficked into the United States from throughout the world. The United States has been at the forefront of efforts to combat human trafficking in all its forms, including labor trafficking, following adoption of the Trafficking Victims Protection Act of 2000. Our government has undertaken the vast challenge of tracking slavery around the world. We have developed strategic reporting tools such as the Trafficking in Persons Report; the List of Goods Produced with Child and Forced Labor and the Findings on the Worst Forms of Child Labor, and the world has taken notice. While considerable progress has been made, I am deeply concerned of the 56 OSCE participating States, twenty were ranked as Tier 2, with another eight placed on the Tier 2 Watch List.

Our efforts would not have been possible without the invaluable contribution of civil society in the U.S. helped us write the law and all subsequent iterations. As we reauthorize certain sections of the Act, which expire at the end of September, civil society representatives have flooded my office—and I'm sure Ambassador CdeBaca's, who was with me at the Rome conference, has some thoughts about ways to improve U.S. policy and implementation.

Catholic Relief Services and many other effective NGOs continue to push for expansion of shelters—places of refuge and protection, places where victims, mostly women, can begin the arduous process of healing. On the prevention and protection side, civil society advocated—and continues to push for—adequate shelters as well as political asylum for victims and their families—the latter as a means of mitigating retaliation. I have visited trafficking victim's shelters in countries throughout the world, including Russia, Nigeria, Peru, Romania, DR Congo, Ethiopia, Brazil, Bosnia, Italy and elsewhere.

Working with Shared Hope International and the Center for Missing and Exploited Children, last year a group of us tried to establish federally funded shelters for trafficked minors in the U.S. Although the legislation passed both chambers, the versions were different and the clock ran out before they could be reconciled.

As we all know, traffickers prey upon those in poverty and those lacking even the prospect of a job.

In Moldova, Catholic Relief Service's documented that high-school age girls were disappearing into human trafficking in large part due to the extreme lack of job opportunities. CRS created the Moldova Employment and Training Alliance, which encouraged private sector companies to expand in rural villages.

"Employers developed vocational training and then guaranteed job opportunities after successful training. The Project, which directly benefited 3,300 young women [and close to 4,000 indirect beneficiaries], also offered support services to address social factors such as domestic violence, substance abuse in families, and lack of fi-

nancial services. These factors are all cited as high-risk factors. The project created opportunities for young women to obtain dignified employment within Moldova, and the option to remain in and contribute to their communities. It therefore reduced the need to seek employment outside of the country.”

As a destination country, we must recognize that here in our very own backyard, thousands of people are trafficked from all over the world to work on our farms, our hotels, our restaurants and even to serve as our domestic workers. What’s even more shocking is that many of these labor migrants enter the country legally through our own immigration system, deceived by their traffickers who sold them a dream.

In my work as the Special Representative for Human Trafficking in the Parliamentary Assembly of the Organization for Security and Cooperation in Europe [OSCE PA], and as Chairman of the Foreign Affairs Committee’s subcommittee on Human Rights, I often find that my role is to facilitate the innovations of civil society. For example, Airline Ambassadors and Innocence at Risk took the fact that the airlines were being used by human traffickers to move victims and created a strategy to combat it. Flight attendants noticed suspicious circumstances, but had no idea what to do and would just move on to the next row. Airline Ambassadors subsequently launched the Child Trafficking Initiative, which provides flight crews with the essential information they need to discern a trafficking situation and to notify law enforcement on the ground for appropriate action once the plane has landed.

U.S. funding for anti-trafficking efforts abroad have brought together labor inspectors, police, prosecutors, NGOs, and faith-based organizations.

Indeed, this afternoon we will focus on various aspects of labor trafficking, including abusive and illegal business practices as well as ways to better educate potential migrants of their rights. Among other issues to be considered will be increased education and accountability, foreign labor recruiting practices and enhancing supply chain transparency. Labor trafficking remains the most prevalent form of human trafficking in the U.S.

Civil society can, and often successfully does, influence the private sector. Take Craigslist, the forum for placing free online classified advertisements, for example. Young women were sold on Craigslist, several NGOs swung into action to publicize and demand that such evil be ended. In a matter of months, Craigslist’s immoral facilitation of sex trafficking was removed from the website. Public-private partnership is essential.

Obviously, numerous major challenges remain. It falls to us—and like-minded people of goodwill everywhere—to meet those challenges head on and wage an unceasing campaign to eradicate human trafficking from the face of the earth.

Today’s hearing draws from an outstanding field of witnesses possessing expertise in various facets of labor trafficking. Their combined effort in the fight against forced labor and human trafficking has produced great results in the areas of education, awareness building and even prosecution. The witnesses bios have been distributed so let me introduce our first panel of speakers.

First up is Ambassador Luis CdeBaca, Director of the State Department Office to Monitor and Combat Trafficking in Persons. He is joined by Dr. Gabriela Lemus who represents the Department of Labor at the Senior Policy Operating Group on Trafficking in Persons and who will report on DOL’s policies designed to combat trafficking for labor exploitation and eliminating slavery from our supply chains.

In our second panel we are joined by the Director of the Washington Office of the International Labor Organization, Ms. Nancy Donaldson and Ms. Neha Misra, Senior Specialist on Migration and Human Trafficking for the Solidarity Center. Last but certainly not least, the founder of the Alliance to Stop Slavery and End Trafficking, a talented actress and tireless humanitarian activist, Ms. Julia Ormond.

I am grateful to each of these experts for bringing their unique perspectives to the table this afternoon. We look forward to your testimonies.

PREPARED STATEMENT OF HON. BENJAMIN L. CARDIN,
CO-CHAIRMAN, COMMISSION ON SECURITY AND COOPERATION IN EUROPE

I appreciate participating in this hearing today as the issue of human trafficking has been a major priority of the Helsinki Commission from its very inception. Trafficking in human beings is simply today's phrase for the scourge of slavery. Something humanity has been afflicted with for thousands of years.

This Commission has worked for a special representative within the State Department and for the OSCE. Our government has passed some of the most stringent reporting requirements in the world to help both of these representatives do their jobs effectively.

Over the years, the Helsinki Commission has primarily focused its efforts on human trafficking for sexual exploitation and for good reason because of the extent of the problem.

It is overdue, however, that we also look at trafficking for the purposes of labor exploitation in these exceptionally troubling economic times.

It is true that labor migration is an important economic engine that promotes growth throughout the OSCE region. However, the labor migration process in many countries is fraught with potential for exploitation, robbing those seeking decent work of their human rights and dignity. This exploitation ripples throughout our product supply chain and services that Americans use every day. The 56 participating States of the OSCE region include many origin countries for labor migrants to Europe, North America, and areas beyond the OSCE's borders. Even in our own system, legally documented labor migrants can find themselves in debt bondage for migration costs or circumstances of involuntary servitude. Many of these instances remain underreported in our own data collection mechanisms.

I am pleased to hear that interagency coordination is under way to harmonize efforts to combat human trafficking and forced labor between the Department of State and the Department of Labor. This cooperation will indeed lead to a greater understanding of the scope of labor trafficking in our own country and establish best practices for our international partners.

This hearing is also especially timely given the upcoming reauthorization of the Trafficking Victims Protection Reauthorization Act of 2008 [TVPRA]. The Helsinki Commission has long played an active role in policy formulation to combat human trafficking and facilitate international cooperation to this end. As Chairman and now Co-Chairman of the Helsinki Commission, I have sought to retain that legacy.

During Senate consideration of the TVPRA in 2008, I worked closely with my colleagues to ensure that consular services were playing a more active role on the front line of visa admissions to prevent trafficking. We included provisions to mandate distribution of resource materials and contact information for support to visa applicants so that they could recognize if their migration circumstances could potentially become labor trafficking due to the acts of unscrupulous recruiters. Addressing recruiter accountability remains a key priority for future legislative efforts.

OSCE Special Representative Maria Grazia Giammarinaro stated, "To eradicate human trafficking and forced labor, States should take more effective measures, including with respect to training for public officials likely to come into contact with cases of labor exploitation." I feel that this should be a key point of emphasis for our work as we seek to reauthorize the TVPRA and move forward to better refine victim identification efforts. Only through a greater awareness among our border professionals, law enforcement, consular officers, and service providers will trafficking be recognized as a crucial element of forced labor cases.

Among the forms of modern-day slavery, labor trafficking is an insidious form often disguised as legitimate employment opportunities that contribute products and services to our economy. In this sense, all Americans have a stake in the problem and a capacity to contribute to the solution through more responsible choices. I look forward to working with my colleagues to promote greater awareness of labor trafficking and ensure the protection of those who seek to make meaningful contributions to economies throughout the OSCE region.

PREPARED STATEMENT OF AMBASSADOR LUIS CDEBACA, DIRECTOR, OFFICE TO
MONITOR AND COMBAT TRAFFICKING IN PERSONS, U.S. DEPARTMENT OF STATE

Good morning and thank you for the opportunity to testify before the Commission today. I'd like to thank Chairman Smith for his leadership on the issue of trafficking, and I applaud his decision to use the stature of the Helsinki Commission to shed a light on the problem of trafficking for labor exploitation in the United States.

Estimates on the total number of trafficking victims in the world start at 12.5 million on the low end and reach to 27 million on the high end. The victims are fishermen trapped on boats, their passports confiscated, forced to work twenty-hour days. They are women drawn away from their homes with the promise of good work, only to find themselves trapped as domestic servants with no pay and no way to escape. They are men brought overseas by unscrupulous recruiters who put them to work in fields and factories and force them to pay back the recruiters' fees.

This problem is not isolated in faraway places in the world or limited to countries stricken by poverty or lack of opportunity. It's happening right here in the United States. As a federal prosecutor, I saw it firsthand. The reality of this crime becomes very clear through the stories of survivors, many of whom found themselves deceived and trapped while in the hopeful pursuit of a life of greater opportunity and freedom.

It's difficult to know exactly how many victims of labor trafficking there are in the United States. Trafficking in persons is a hidden crime, and gathering accurate statistics on the number of victims is an ongoing challenge. Victims of trafficking are often afraid or unable to come forward, and definitional difficulties, circular reporting, and the frequent intermingling of human trafficking and smuggling make accurate reporting nearly impossible. So rather than attempting to precisely outline the scope of the problem, I hope this testimony will help to highlight particular challenges in combating labor trafficking, including those singled out by the Commission; summarize the positive steps we have taken; share the promising practices we have seen from government, law enforcement, and civil society; and lay out where we need to go from here to expand and improve our efforts to combat labor trafficking in the United States.

The strategy that we use across the US government to address modern trafficking is based on the 3P Paradigm—prosecution, protection, and prevention—set forth in the UN Palermo Protocol, the decade-old document that established the framework for the modern anti-trafficking movement. In all three areas, we are seeing progress, and interagency coordination continues to improve so that across government we are united in this struggle.

In particular, I'd like to praise my colleagues at the Department of Labor [DOL] for implementing a rule that strengthens protections for Temporary Agricultural Employment H-2A Aliens in the United States. Guest workers are a group particularly at risk for trafficking, and this DOL regulation reduces the risk of worker exploitation by reinstating a requirement that employers provide documentation, as part of the application for guest worker visas, that they have complied with the prerequisites for bringing H-2A workers into the country and by returning to a methodology for calculating adverse effect wage rates, which results in higher wages for workers. Additionally, DOL has prohibited requiring H-2A workers to pay certain fees, including recruitment fees, and improved its own ability to ban employers who have committed violations of the agricultural program from filing future H-2A labor certification applications.

Building on that initiative, DOL last year entered into a revised agreement with the Mexican Embassy and the Mexican Ministry of Foreign Affairs to ensure that Mexican workers in the United States are informed of their labor rights through their consular offices. This information can assist vulnerable workers, including persons who may have been trafficked.

And of course, DOL's lists published by their Office of Child Labor, Forced Labor, and Human Trafficking, such as the List of Goods Produced by Child Labor or Forced Labor, prove invaluable in demonstrating just how closely connected we are to this abuse around the world.

Despite these and other successes, we need to continue building our capacity and ensuring that the needed resources are in place to make anti-trafficking efforts across government more coordinated and effective. Today, with respect to labor trafficking in the United States, I'd like to look at the way new ideas about prevention are going to shape the future of this fight.

Prevention has long been the afterthought of the 3Ps in comparison to its seemingly more tangible counterparts of prosecution and protection. Prevention has either been relegated to the realm of poster campaigns in airports and train stations,

or regarded as an abstract goal tied to massive structural problems such as gender inequality and poverty. But as our understanding of human trafficking grows, so too grows the possibility of making real inroads when it comes to prevention.

A good place to start is by considering the way those of us in the United States interact with labor trafficking on a day-to-day basis, which we all do. Forced labor is prevalent in the production of a wide range of raw materials, from cotton and chocolate and coffee to steel and rubber and tin. All of us come in contact with products tainted by labor trafficking, and even reputable and responsible corporate citizens can profit from abuse. It is this knowledge that has enabled us in recent years to focus on the importance of supply chain monitoring and to call for increased leadership from the private sector.

Consumer spending and corporate investment in business are significant motivators that can turn around a system that has allowed traffickers and economies to operate with impunity. There is an increasing push for consumer transparency, certification, and more rigorous regulation. Research suggests companies investing in fair labor practices and labeling their products accordingly improve conditions on the ground and drive up the demand for their products.

A new push for corporate accountability is emerging, which demands companies focus their attentions beyond the places where their products are manufactured or processed, and look additionally at the sources of their human capital and the methods of recruitment tied to their supply chains, as well as the places where the raw materials are collected, harvested, or mined. Effective supply chain monitoring must go all the way down to raw materials. Such research will lead to an understanding of supply and demand factors that affect the workers whose labor contributes to downstream profits.

In last year's Trafficking in Person's Report [TIP Report], the State Department published recommendations for verifiable corporate policies that prohibit the use of forced labor through the supply chain. Four major principles can help guide corporate action:

- Statements of corporate policy must incorporate truly independent verification;
- While remediation is important, when labor abuses rise to the level of a human trafficking offense, authorities should be notified;
- Governments must redefine norms and set standards to create a space for companies to take the lead on combating modern slavery;
- Lending institutions should consider establishing whether a company has a forced labor supply chain policy as a factor for determining that company's credit rating.

The aim of supply chain monitoring is to find trafficking wherever it occurs, whether in manufacturing, harvesting of raw materials, or the commercial sexual activity aimed at business travelers. This knowledge will allow companies to staff and source their supply chains in a manner that diminishes the demand traffickers satisfy through violence and exploitation. We have developed a model set of policies that we believe will put companies on that path:

- Taking accountability for all the labor in the supply chain all the way down to raw materials, with a pledge to monitor compliance, remediate noncompliance, and verify those actions by an independent third party;
- Honoring the role and voice of the worker as the best check on abuse;
- Publicly disclosing mechanisms for providing independent, unannounced, and thorough audits;
- Providing effective whistleblower and complaint procedures;
- Providing clear guidelines for security procedures throughout the supply chains to ensure that security forces are not used to intimidate, hold, or abuse workers;
- Regularly updating shareholders and stakeholders on creation, maintenance, and implementation of their related policies;
- Guaranteeing all workers mobility by strictly forbidding any confiscation of official documents;
- Committing to providing restitution for victims and other forms of remediation;
- Complying with trafficking-related local laws and international standards for confronting human trafficking and protecting victims;
- Monitoring labor recruitment practices to ensure those working on guest worker or sponsorship systems are not exploited by recruiters; and
- Holding employees accountable for any violation or exploitative conduct contributing to trafficking in persons.

While these recommendations from the TIP Report are a good starting point, we have already seen private-sector actors take the next steps by embracing the notion of supply-chain monitoring. A conference last winter produced the Luxor Implementation Guidelines to the Athens Ethical Principles. The Athens Ethical Principles are the product of a 2006 meeting of NGOs, governments, businesses, international

organizations, and individuals, and they express a set of values opposed to trafficking in persons. But it was the Luxor conference that put in place standards for implementing those principles. According to the guidelines, they seek “to help move beyond aspirational statements to the development of standard operating procedures—a way to move beyond principles to practice and implementation.” To date nearly 600 companies have adopted the guidelines.

The Luxor Guidelines represent the future of the way we look at demand for forced labor. If there were no demand for the cheap goods tied to forced labor, then suddenly the profit motive for traffickers would no longer be worth the risk of engaging in a criminal enterprise.

And though the success of this approach requires motivated and willing private-sector actors, government’s role will remain central.

California recently enacted a law that serves as a good example of legislation encouraging the private sector to look at their supply chains and consider their impacts on labor trafficking. California now requires its largest retailers and manufacturers to make public whatever efforts, or lack thereof, they have made to eliminate human trafficking from their supply chains. This is not a burdensome piece of legislation; it does not require corporations to adopt sweeping new policies for monitoring their supply chains. It just requires transparency. Of course, like the enactment of many trafficking laws, it was a partnership between government and the activist community that helped usher this process along, and it would not have been possible without the commitment and leadership of Julia Ormond, who will testify before this Commission later today and can likely provide greater insight on this outstanding legislation.

Beyond legislating, governments can use their leverage as consumers to curb the demand for forced labor. We have already taken steps in the US government’s procurement and contracting policies to protect against both sex and labor trafficking. The Department of Homeland Security and the Equal Employment Opportunity Commission co-chaired a temporary working group on implementation of the Federal Acquisition Regulation to combat modern slavery and its contributing factors like the demand for commercial sex. The group is developing a training program for the federal acquisition workforce to be considered for adoption by all agencies and deployment at the Federal Acquisition Institute.

Additionally, if government at all levels made commitments to reduce their slavery footprint—to support private-sector partners that had adopted anti-trafficking practices—the ripple effect could be tremendous. Forging partnerships to raise awareness about slavery footprint issues holds great potential. The State Department Trafficking in Persons Office is currently working with civil society and private sector partners to develop a tool that will allow individuals to determine not only their slavery footprint in their purchasing habits, but the steps they can take to reduce it.

Lastly, there can be no substitute for continued strong government action on all fronts of the anti-trafficking movement. The United States must continue to prosecute and punish traffickers. We need to enhance our efforts to identify victims, offer them protection, and provide survivors with the support and resources they need. We need to work with civil society and the international community as a global leader in the fight against modern slavery.

A decade into the modern anti-slavery movement, we find ourselves at a moment to ask the question “What are the next steps?” In the United States, and in many places around the world, the legal structures are in place, the political will has grown, and we are beginning to see progress. The fact that we’re having a hearing on labor trafficking and supply chain monitoring shows how far this movement has come. The fact that this commission recognizes the importance of partnering with the private sector and civil society speaks to the tremendous potential of what lies ahead. I believe that with the engagement of dedicated lawmakers and the commitment of the US government, the next ten years of this struggle will be a decade of delivering on what we’ve promised. I look forward to working with you as we continue this important struggle, and I again thank you for the opportunity to testify today.

PREPARED STATEMENT OF GABRIELA D. LEMUS, LABOR REPRESENTATIVE TO THE
SENIOR POLICY OPERATING GROUP ON TRAFFICKING IN PERSONS, U.S. DEPARTMENT
OF LABOR

INTRODUCTION

Chairman Smith, Co-Chairman Cardin, and distinguished members of the Commission, on behalf of the Department of Labor and Secretary Hilda L. Solis, thank you for the opportunity to discuss the Department's efforts to combat human trafficking, both domestically and abroad.

President Obama and Secretary Solis are deeply committed to addressing the problem of human trafficking and the Administration and the Department of Labor are working to enhance efforts to combat trafficking and assist victims. It has been more than a decade since enactment of the Trafficking Victims Protection Act [TVPA] and the fight against trafficking in persons continues.

The Department of Labor's commitment to fighting human trafficking is rooted in its long history of working to protect and assist our nation's most vulnerable workers, some of whom may wind up in forced labor. Labor trafficking subjects women, children, and men to the most extreme forms of workplace exploitation. Workers who are trafficked are denied not only their wages, but their human rights.

As one of Secretary Solis' priorities, the Department is engaged both domestically and internationally to better serve and protect vulnerable workers. Our efforts to ensure that workers are afforded all of their rights under the law include initiatives to combat human trafficking in all of its forms. The Secretary leads a coordinated effort across the Department to achieve our goal of making progress in this important fight against human trafficking. Under her leadership, the Wage and Hour Division [WHD], the Bureau of International Labor Affairs [ILAB], and the Employment and Training Administration [ETA] work collaboratively to ensure that the Department uses all available tools in the most efficient and effective manner to protect these vulnerable populations. I am pleased to report to the Commission on these efforts.

THE WAGE AND HOUR DIVISION [WHD]

The Wage and Hour Division of the Department of Labor enforces some of the nation's most comprehensive federal labor laws, including the minimum wage, overtime pay, child labor, the employment of persons with disabilities, family and medical leave, the employment of temporary or seasonal migrant workers, and prevailing wages for government service and construction contracts. These enforcement responsibilities allow WHD to have a daily presence in American workplaces and, while the Agency does not have responsibility to investigate trafficking directly, many of WHD's investigations take place in industries marked by workers who are vulnerable to trafficking. This means the Wage and Hour Division is often the first federal agency to make contact with the workers who may have been trafficked or may be otherwise employed under abusive conditions in violation of the law.

In industries with vulnerable workers like restaurants, garment manufacturing, and agriculture, investigators interview workers and assess situations where workers may have been intimidated, threatened, or held against their will. Investigators also review payroll records and inspect migrant farm worker housing. Criminal activity found in the workplace by WHD investigators may be referred to an appropriate authority as part of standard WHD procedure. After a referral is made, WHD's assistance may be requested to compute back wages to ensure restitution on behalf of victims of trafficking, and to assess penalties against the employer.

WHD representatives currently participate in approximately 25 human trafficking task forces around the country, including in Los Angeles, Houston, Phoenix, and Long Island. WHD's primary responsibility on these task forces is to report trafficking crimes to the task force when detected during the course of an investigation, and provide assistance in calculating back wages/restitution owed to victims of trafficking.

Additionally, WHD is a member of the Federal Enforcement Working Group [FEWG], along with the Department of Justice, the Federal Bureau of Investigation, the Department of Homeland Security—U.S. Immigration and Customs Enforcement, and the DOL—OIG. As part of the FEWG, WHD is participating in the development and implementation of a Pilot Federal Anti-Trafficking Coordination Team [ACTeam] Program. The goal of the ACTeam Program is to proactively identify and assist human trafficking victims; develop victim-centered, multi-disciplinary human trafficking investigations; and produce high-impact human trafficking prosecutions resulting in the conviction of traffickers, the dismantling of trafficking organizations, and the forfeiture of proceeds and instrumentalities of trafficking offenses.

WHD's role in the program focuses on helping to detect trafficking indicators during investigations, and computing back wages owed to trafficking victims. DOL's Office of the Inspector General strengthens this collaboration through its expertise in investigating labor racketeering and visa fraud violations that occur in connection with labor trafficking offenses.

Department of Homeland Security [DHS] regulations [8 C.F.R. § 214.14 [a] [2]] expressly list certain federal law enforcement agencies that may certify U non-immigrant status [U visa] applications, including the Department of Labor. Under that regulation the Department of Labor is identified as an agency with jurisdiction to conduct investigations of violations of laws. In its role of investigating workplace laws, the Department of Labor may detect evidence that a worker is a victim of certain criminal activity, including trafficking, that may qualify the worker for U non-immigrant status. On April 28, 2011, the Department of Labor announced protocols to complete, as appropriate, a certification that the individual petitioning for U non-immigrant status is a victim of a qualifying crime and is, has been, or is likely to be helpful in the investigation or prosecution of that crime. This certification must be included by an individual in his or her U nonimmigrant status petition to DHS U.S. Citizenship and Immigration Services. The U nonimmigrant status certification process has been delegated to the Wage and Hour Division's regional administrators located in five cities around the country.

In May 2010, to support and enhance WHD's enforcement efforts, the Department entered into a revised Joint Declaration and revised Letters of Agreement with the Mexican Embassy and Mexican Ministry of Foreign Affairs, updating 2004 agreements between the two countries. In March 2011, the Department signed a similar agreement with the El Salvadorian Ministry of Foreign Affairs. These agreements aim to ensure that workers from these countries who are employed in the United States are informed about their labor rights through information sharing, outreach, education, training, and exchange of best practices. Such information can assist vulnerable workers, including those who may have been trafficked. DOL is also expanding the program to include partnerships with embassies from Central America and the Caribbean. In December 2010, ambassadors from nine Central American and Caribbean countries met with Secretary Solis to learn about the program and potential areas for partnership. In addition to these formal declarations, WHD also participates in several other outreach and partnership activities to share information and leverage community-based resources to more effectively inform workers about their rights and how to file wage and hour complaints.

BUREAU OF INTERNATIONAL LABOR AFFAIRS

The Department's Bureau of International Labor Affairs builds relationships and funds programs in developing countries to improve working conditions and labor standards across the global economy.

ILAB plays a critical role in bringing to light the dark stories of human trafficking. By bringing these stories to the public's attention, the Department is hopeful that countries and companies will change their behavior and reform their worst practices. On December 15, 2010, the Department released three new reports on child labor and forced labor. All three reports include information on persons in severe labor exploitation, such as forced labor, servitude, or debt bondage. Together these reports demonstrate that from factories to the farms, abuses of fundamental human rights, including human trafficking, still persist in the 21st century. These reports are:

- The List of Goods Produced by Child or Forced Labor, pursuant to the 2005 Trafficking Victims Protection Reauthorization Act, identifies 128 goods from 70 countries that DOL has reason to believe are produced by forced labor, child labor or both, in violation of international standards;
- The List of Products Produced by Forced or Indentured Child Labor, pursuant to Executive Order 13126 of 1999, includes 29 products from 21 countries; and
- The 9th annual Findings on the Worst Forms of Child Labor. DOL has published this report since 2002, but last year the report was reformatted, and for the first time identifies gaps in government efforts and includes country-specific suggestions for government action. By providing more analysis and specific suggestions for action, the redesigned report provides Congress and Executive Branch agencies with useful information to consider when making labor and trade policy.

Since 1995, the U.S. Congress has appropriated over \$839 million to ILAB for programs to combat international child labor. This funding has supported technical assistance projects in more than 80 countries, and reached approximately 1.5 million children at risk of or engaged in exploitive child labor. ILO Convention 182 identifies child trafficking as one of the worst forms of child labor, and it is through this

framework that DOL addresses trafficking in its technical assistance projects. While the Department's technical assistance projects include stand-alone trafficking in persons projects, many also include multi-faceted projects to address other worst forms of child labor in addition to trafficking. For example, the Department undertakes such projects to:

- Provide victims with rehabilitation services and educational opportunities.
- Facilitate increased access to economic and vocational opportunities for trafficked victims and their families.
- Support awareness raising campaigns about the risks of trafficking.
- Build capacity to strengthen enforcement efforts and promote legislative and policy reform to incorporate anti-trafficking initiatives.
- Collect reliable data about trafficking to better understand the problem.

EMPLOYMENT AND TRAINING ADMINISTRATION

Because many of the most vulnerable workers in the United States are temporary foreign agricultural workers, the Department's H-2A program is another significant locus of the Department's efforts to combat trafficking. The Immigration and Nationality Act assigns specific responsibilities for the H-2A program to the Secretary of Labor. Among the responsibilities delegated to the Department's Office of Foreign Labor Certification are ensuring that U.S. workers are provided first access to temporary agricultural jobs and that the employment of the foreign workers does not adversely affect similarly employed U.S. workers. Accordingly, it is of great importance to the Department that both workers in the U.S. and temporary foreign workers are provided with appropriate worker protections. The Department ensures that these statutory responsibilities are met through regulatory standards for the acceptance and processing of employer-filed H-2A applications.

On March 15, 2010, a final rule addressing the temporary agricultural employment of H-2A aliens in the United States became effective. The H-2A final rule includes enhanced mechanisms for protecting workers, including H-2A temporary foreign workers who are increasingly susceptible to the abuses of dishonest employers and their agents such as foreign labor recruiters. The Secretary has tasked the Employment and Training Administration with taking an active role in ensuring compliance with H-2A protections because temporary foreign workers remain unlikely to file complaints about violations of their rights under the program.

The Department believes that requiring employers to bear the full cost of their decision to employ nonimmigrant workers is a necessary step toward preventing the exploitation of such workers. Therefore, the 2010 Final Rule prohibits employers or their agents from seeking or receiving payment of any kind from an H-2A worker for any activity related to obtaining the necessary labor certification, including the employer's attorneys fees, application fees, or recruitment costs, unless the employers are being reimbursed for costs that are the responsibility of the worker, such as government-required passport fees. The regulation also prohibits "kick backs" from the H-2A worker to the employer or any other deductions that reduce the actual wage paid to the worker below the required H-2A wage; and requires employers to pay transportation costs between the place of employment and the place from which the H-2A worker has come, as well as subsistence costs, and visa fees.

Moreover, amidst reports of H-2A temporary foreign workers being required to give recruiters thousands of dollars to secure a job, the Department recognized that such practices adversely affect the wages and working conditions of U.S. workers by creating conditions akin to indentured servitude, driving down wages and working conditions for foreign and domestic workers. Therefore, the 2010 Final Rule requires employers to contractually forbid foreign labor contractors or recruiters engaged in international recruitment of H-2A workers from seeking or receiving payments from such prospective employees.

Lastly, in an effort to ensure worker protections and program integrity, the 2010 Final Rule requires employers to provide the H-2A worker a written copy of the work contract no later than at the time the foreign worker applies for a visa, and to post and maintain in a conspicuous location at the place of employment a poster provided free of charge by the Secretary of Labor which sets out the rights and protections for foreign workers.

The 2010 H-2A Final Rule's enhanced enforcement provisions allow the Department to investigate and sanction employers and their agents or attorneys where there is a violation of regulation provisions. The possible sanctions include debarment from the program for up to three years, revocation of an already approved labor certification, and/or special procedures for future applications where a less than substantial violation has occurred. If an employer is found to have failed to meet its legal obligations under the 2010 Final Rule, for example by violating the

prohibition on making workers pay for recruiter fees, the Department may seek recovery of those recruitment fees and obtain temporary or permanent injunctive relief, as well as assess civil money penalties against the employer. These monetary penalties demonstrate the Department's commitment to strengthening the necessary enforcement of a law that protects workers who are unlikely to complain to government agencies about violations of their rights under the program.

CONCLUSION

In today's global economy, workers in any country are vulnerable to trafficking and labor rights abuses. The Department's innovative and integrated programs help workers earn decent incomes and prevent them from being abused and exploited. This approach is a vital part of the Administration's goal of ensuring that globalization provides benefits and opportunities for workers everywhere, rather than triggering a "race to the bottom."

Again, thank you for the opportunity to testify today. I am happy to answer any questions the Commission may have on the Department of Labor's work to combat human trafficking.

PREPARED STATEMENT OF NANCY A. DONALDSON, DIRECTOR, WASHINGTON OFFICE OF
THE INTERNATIONAL LABOR ORGANIZATION [ILO]

Chairman Smith, Co-Chairman Cardin and Members of the Commission, thank you for inviting me to brief the Commission on the ILO's perspective and its work on migration, forced labor and human trafficking.

INTERNATIONAL TRENDS

The migration of human beings today is, as it has always been, a function of the search for greater opportunity. Each year millions of people leave their homes and cross national borders in search of better prospects and greater security for themselves and their families, undertaking jobs ranging from manual labor to science and technology. Migration takes place between developed and developing countries and among developing countries as well. International migration is on the rise and will continue to grow in the coming decades due to growing income inequality and wealth concentration across countries, lack of jobs and economic opportunities where people live, environmental and natural disasters, political persecution, armed conflict, and lower population growth in most destination countries.

Ninety percent of all migrants are workers and their families. According to UN and ILO estimates, international migrants reached 214 million in 2010, of which 105 million [49 per cent] are economically active migrants. Women make up almost 50 per cent of all international migrants. Thus, international migration is primarily about the search for decent work and livelihoods.

Migrants make significant contributions to social progress and welfare in both their country of origin and the "destination" countries where they work. They bring skills, labor knowledge and initiative to advance economies in host countries. They also benefit origin countries—sending money home, and through transfer of technology and critical skills and investments through return migration and Diasporas.

Today we are here to discuss urgent problems often faced by vulnerable migrant populations and individuals, criminal trafficking and forced labor and the actions that the ILO and others are taking to eradicate these abuses across national borders and within countries. With growing labor demand in some sectors and regions, malpractices by private recruitment agencies involving high fees and misleading information is a substantial issue in the globalized economy. Migrants are vulnerable to exploitation, experience deskilling and discrimination, and poor workforce integration in host countries. In the extreme, irregular migration includes trafficking, smuggling, sexual exploitation and violence.

As ILO's recent report highlights,¹ forced labor today is the antithesis of decent work and a global problem affecting almost every country in the world. Until very recently, the bulk of forced labor and slavery-like practices were bound up with traditional forms of serfdom, with individuals tied to agrarian landlords and others. Today forced labor is mostly found in the informal economy in developing and industrialized countries alike. It is affecting vulnerable women much more than before. Moreover, a key feature of modern forced labor is the exploitation of the poor and vulnerable by intermediaries, and is basically a form of modern debt bondage. There are new forms or patterns of coercion creeping into production systems and labor markets around the world, mainly in the informal economy, but also sometimes in the supply chains of modern industrial enterprises and supermarkets.

Traditional slavery is still found in some parts of Africa, while forced labor in the form of coercive recruitment is present in many countries of Latin America, parts of the Caribbean and elsewhere. Around the world, domestic workers are trapped in situations of forced labor, with some restrained from leaving their employer's home by means of threat or actual violence. Bonded labor persists in South Asia where millions of men, women, and children are tied to their work through a vicious cycle of debt. In Europe and North America, an increasing number of women and children are victims of traffickers who sell them into forced prostitution or sweatshops. Finally, forced labor is sometimes still imposed as a punishment for expressing one's political views.

The ILO estimates that there are at least 12.3 million persons in forced labor today. Globally, only 20 percent of all forced labor is exacted by the State or armed forces. Eighty percent of forced laborers or 9.8 million people were exploited by private agents. Of this majority, 11 percent is exacted for forced commercial sexual exploitation, while 64 percent is exacted for the purpose of economic exploitation. Reliable statistical information about the economic sectors where forced labor is found remains difficult to establish. Most victims are poverty-stricken people in Asia and

¹ILO. 2009. *The Cost of Coercion*. Geneva.

Latin America, whose vulnerability is exploited by others for a profit. Yet, over 360,000 women and men [3 percent of the total] are in forced labor in industrialized countries, trafficked for either labor or sexual exploitation. Some 56 percent of all persons in forced labor are women and girls. Children under 18 years of age make up between 40–50 percent of forced laborers.

The ILO is actively focused on people within contract labor and recruitment systems and domestic workers. The ILO has taken up the issue of protecting domestic workers vigorously. Last year, the ILO International Labor Conference [ILC] began consideration of a Domestic Worker's Convention. It is expected to receive the second round and final consideration and a formal vote during the meeting of the 100th ILO ILC this June. The U.S. has been an important leader on protecting domestic workers. We appreciate U.S. support for the convention and we welcomed the April 2011 statement made by the U.S. mission in response to the OSCE Report on Human Trafficking.

ILO LABOR STANDARDS

One principal responsibility of the ILO is drawing up and overseeing international labor standards. Since 1919, the member countries, employers and workers that make up the tripartite structure of the ILO have developed and maintained a system of international labor standards aimed at promoting opportunities for women and men to obtain decent and productive work, in conditions of freedom, equity, security and dignity. Strong enforcement of labor standards worldwide levels the playing field for all workers, including American workers and industries. In today's globalized economy, international labor standards are also an essential component for ensuring that the growth of the global economy provides benefits to all.

The ILO has pioneered the development of international standards prohibiting forced labor and for the governance of labor migration and protection of migrant workers since the 1930s. Universal human rights are applicable to all human beings irrespective of nationality. Moreover, the core labor rights—in the eight Conventions of the ILO Declaration on Fundamental Principles and Rights at Work [1998]—are applicable to all workers including all migrant workers. Two of the eight core conventions [C. 29 [1930] & C. 105 [1957]] prohibit all forms of forced or compulsory labor and prohibit forced or compulsory labor as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system; as a method of mobilizing and using labor for purposes of economic development; as a means of labor discipline; as a punishment for having participated in strikes; and as a means of racial, social, national or religious discrimination. Additionally, forced or compulsory labor is considered to be one of the worst forms of child labor in the Worst Forms of Child Labor Convention No. 182 [1999].

The ILO Conventions on migrant workers—Migration for Employment No. 97, [1949] and the Migrant Workers [Supplementary Provisions] Convention No. 143, [1975] define the rights of migrant workers, and advocate the principles of equal treatment, equality of opportunity and non-discrimination. The 1990 UN International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families has elaborated and expanded on these rights. These three Conventions together define a comprehensive charter of migrant rights and provide a legal basis for national policy and practice on migrant workers.

Member States of the OSCE have made significant commitments to International Labor Standards relevant to forced labor and migration. The vast majority of OSCE states have ratified the Conventions prohibiting all forms of forced labor. Additionally, 93 percent have ratified Convention 182 on the worst forms of child labor. Regarding migration, the record of ratifications is lower: only 20 OSCE countries ratified Convention 97 and 14 have ratified Convention 143.

ILO PROGRAMS

The ILO has two specialized programs—The International Migration Program [ILO MIGRANT] and the Special Action Program to combat Forced Labor [SAP-FL] to assist ILO countries and partners with the challenges of labor migration and forced labor.

The ILO Governing Body created the Special Action Program to combat Forced Labor in November 2001 as part of broader efforts to promote the 1998 Declaration on Fundamental Principles and Rights at Work and its Follow-up. The ILO is promoting a Global Alliance with partner agencies pooling their efforts to eliminate forced labor worldwide by 2015.

ILO's International Migration Program supports effective practices by the ILO member States in combating discrimination against migrants and in helping their

social and economic integration. The program is currently implementing the Plan of Action of 2004 which consists of seven components, including a Multilateral Framework, promoting the application of international labor standards, strengthening social dialogue, technical assistance for capacity building, and supporting the ILO global employment agenda at national levels. The Multilateral Framework provides non-binding principles and guidelines to assist countries in developing more effective labor migration policies and includes a set of best practices. Currently the program is engaged in 14 technical cooperation projects either funded by or to be implemented in OSCE countries, to develop effective migration systems, policies, and strategies; strengthening pertinent government institutions, and educating migrants on their rights and available services

The ILO has been at the forefront of generating and sharing data and knowledge on these topics, to raise public awareness and increase pressure for action. ILO's initial body of research was seminal as it has provided the basic facts and figures on modern forced labor, raising the global pressure for policy change. The ILO has continued to expand the global knowledge base on forced labor, for example commissioning focused studies in methodologically challenging and politically sensitive areas.

I would like to emphasize that improving data collection on these issues is of paramount importance. Significant gaps in understanding the quantitative dimension of forced labor and human trafficking remain. The few available national estimates are generally calculated on the basis of secondary data. The ILO is working with governments to improve indicators and data collection on forced labor and human trafficking to promote better enforcement and monitor the impact of national and international policies.

The ILO has developed and disseminated courses, guidance and training materials on key aspects of forced labor and trafficking. For example, a regular course on labor migration was launched in 2007 at ILO's training center in Turin, Italy. In July 2011 the Labor Migration Academy will provide advanced knowledge and enhance the capacity of key migration actors to better understand labor migration challenges and opportunities. A set of handbooks and training manuals for recruiters, labor inspectors, businesses have been developed to provide guidance and strategies about forced labor.²

Cooperation between the OSCE and the ILO on research and training has helped our economic partners to access important knowledge and expertise on these topics. For example, a number of migration handbooks have been jointly developed to assist countries in their efforts to develop new policy approaches, solutions and practical measures for better management of labor migration in countries of origin and of destination. Training projects were organized in 2010 focusing on gender aspects in labor migration policies. Last week, ILO participated in a two-day OSCE conference in Tbilisi, Georgia focusing on building partnerships to combat human trafficking and forced labor as part of a European Union-funded regional anti-trafficking project in the South Caucasus. In June 2011, ILO will participate in the Alliance Against Trafficking in Persons meeting in Vienna, Austria—an international forum which aims at combining the efforts of the stakeholders to prevent and combat human trafficking.

The ILO assists governments in designing and implementing projects on the ground. Through our Decent Work country program strategies, the ILO works with employers, workers and governments to set out agreed national priorities in the world of work. Experience shows that, with careful awareness-raising, consensus can be built to include sensitive subjects, such as forced labor, among the core national priorities. Bolivia and Nicaragua are examples of countries which have included the abolition of forced labor as a specific Decent Work Agenda priority. In Asia, Pakistan has included a direct commitment on reducing bonded labor. The U.S. Office to Monitor and Combat Trafficking in Persons [G/TIP] is providing leadership and grants to eliminate human trafficking globally, support the victims of trafficking and to prosecute traffickers. In Turkey, through the ILO's International Program on the Elimination of Child Labor [IPEC], the U.S. Department of Labor sponsored a project that withdrew or protected over 13,000 children from the worst forms of child labor between 2003 and 2006.

In Brazil, the ILO has been working with our social partners on the issue of forced labor in global supply chains. In many sectors, enterprises outsource a range of production and service-related activities which results in complex international supply chains. The growth of supply chains and outsourcing has raised issues sur-

²See, for example, *Trafficking For Forced Labor—How To Monitor The Recruitment of Migrant Workers* [2006]; *Forced Labor and Human Trafficking: Handbook for Labor Inspectors* [2008]; *Handbook for Employers & Businesses* [2008].

rounding the application of international labor standards on suppliers. The abolition of “slave labor” and the worst forms of child labor are a key priority in Brazil’s “National Agenda for Decent Work”. With grant support from the Bureau of Democracy, Human Rights, and Labor [DRL] of the State Department, the project “Eradicating Forced Labor from Global Supply Chains through Social Dialogue” [2005–2011] has promoted new understanding and strategies for engagement. The key objective is to strengthen the Global Alliance Against Forced Labor by reducing risks of trafficking and forced labor facing Brazilian suppliers and international buyers. The public and private sector efforts in Brazil have helped to raise awareness about forced labor, mobilize companies, rescue thousands of forced laborers, and map complex supply chains in a range of industries.

CONCLUSIONS

I want to leave the Commission with three key points:

One—Good migration polices and the abolition of forced labor are challenges for every country—whether industrialized, emerging economies or less developed. The ILO is playing a critical role in assisting countries to bring decent working conditions to citizens and migrants alike, and ending forced labor and trafficking. However, we believe that true gains in the governance of migration, and against forced labor and human trafficking must happen in a multilateral context. By definition, international migration and human trafficking require common approaches and means for cooperation among States.

Two, the ILO takes a rights-based approach to these issues. The ILO is devoted to promoting social justice and internationally recognized human and labor rights, pursuing its founding mission that labor peace is essential to prosperity. Basic human rights, including core labor rights of all workers, both men and women, and children, migrants and other vulnerable workers should be respected.

Three, governance of migration and forced labor deserves a multi-stakeholder approach. The ILO works with governments and strong social partners in devising innovative and sustainable solutions to these issues. Cooperation between the economic partners—government, employers and workers is critical to reducing irregular migration and ending forced labor and ensuring protection of workers’ rights.

We at the ILO have enjoyed fruitful partnerships with G/TIP and DRL at the U.S. Department of State, and with the Bureau of International Labor Affairs within the U.S. Department of Labor while working on these important issues. We respect and seek more ways to work with the outstanding initiatives of the Solidarity Center. We are dedicated to continue working together to improve migrants’ conditions and to end forced labor and human trafficking around the world.

Thank you once again for inviting me to participate in this hearing, Chairman Smith, Co-Chairman Cardin and distinguished Members of the Commission. I am happy to answer any questions you may have.

PREPARED STATEMENT OF NEHA MISRA, SENIOR SPECIALIST, MIGRATION AND HUMAN
TRAFFICKING, SOLIDARITY CENTER

“SLAVERY WITHOUT SHACKLES”: LABOR EXPLOITATION AND THE TRAFFICKING OF
VULNERABLE WORKERS AROUND THE WORLD

Thank you to the U.S. Helsinki commission for the opportunity to present the Solidarity Center’s view about “labor trafficking in troubled economic times”, and especially to highlight the vulnerability of immigrant workers¹ to trafficking and forced labor within legal structures in the U.S. and around the world.

My name is Neha Misra. I am the Senior Specialist for Migration and Human Trafficking at the Solidarity Center. We are an international NGO that promotes and protects worker rights globally, working in over 60 countries. The Solidarity Center is an allied organization of the American Federation of Labor—Congress of Industrial Organizations [AFL—CIO], and a member of the Alliance to End Slavery and Trafficking [ATEST]. Building upon more than 20 years of experience in the areas of child labor and immigrant worker exploitation, the Solidarity Center raises awareness about the prevalence and underlying causes of trafficking for labor exploitation, and strives to unite disparate forces to combat the problem. Since 2001, the Solidarity Center has implemented more than 20 programs combating human trafficking in countries such as Thailand, Indonesia, Nepal, India, Sri Lanka, Pakistan, the Philippines, Bahrain, Qatar, Kuwait, Kenya, and the Dominican Republic. These programs include initiatives that address each of the four “Ps” that have become part of the anti-trafficking paradigm: prevention, protection of victims, prosecution [or as we prefer to describe it, “rule of law”], and partnerships.

TRAFFICKING FOR LABOR EXPLOITATION IN TODAY’S GLOBAL ECONOMY

The Solidarity Center especially appreciates the Helsinki Commission’s focus in this hearing on trafficking for labor exploitation and the focus on “abusive, unethical, and illegal business practices that . . . contribute to human trafficking and forced labor.” As a worker rights organization, the Solidarity Center has seen first-hand how violations of worker rights and the lack of labor standards and protections for workers increase their vulnerability to human trafficking.

Too often the media and the public see human trafficking only as a crime of organized syndicates, of criminal gangs, or underground criminals who exploit undocumented immigrant workers. While this is of course true in some contexts, we are increasingly seeing trafficking for labor exploitation happening in the context of legal structures of employment and business—with traffickers who are employers and labor recruiters, not gang members.

Examples abound around the world of human trafficking thriving in the context of worker exploitation:

- When immigrant workers are forced to pay high fees, often at exorbitant interest rates, to labor recruiters to work in another country, they are vulnerable to debt bondage—one of the most pervasive forms of modern day slavery. This is the case for 400 Thai workers who, according to a U.S. Department of Justice indictment, were allegedly trafficked to the United States by Global Horizons Manpower under the H-2A visa program through false promises of decent work. The Thai workers “took on crushing debt to pay exorbitant recruiting fees, about \$9,500–\$21,000. After they arrived in America, according to the indictment, their passports were taken and they were set up in shoddy housing and told that if they complained or fled they would be fired, arrested or deported.”² Millions of other workers—including for example, Moldovan migrant agriculture workers in Italy and Vietnamese workers toiling in factories in Malaysia—can tell a similar story.

- When buyers pressure suppliers all along supply chains to achieve cutthroat prices for their products, workers are the ones that bear the burden as labor costs are often the first ones to be cut, increasing workers vulnerability to severe forms of labor exploitation, including human trafficking. This is the case for thousands of Burmese migrant workers who have been subject to forced labor and physical, emo-

¹The term “migrant worker” is the internationally accepted term for a person who migrates for employment, whether temporary, seasonal, or permanent. In the United States, in everyday language, “migrant worker” refers to a seasonal or temporary worker, and “immigrant worker” refers to someone who migrates for work on a more permanent basis, or who has residency rights. I will use the common U.S. term of “immigrant worker” in my testimony modifying it slightly to refer to any person who leaves his or her country of origin to find a job abroad—whether temporary, seasonal or permanent.

²Editorial, “Forced Labor,” September 7, 2010, http://www.nytimes.com/2010/09/08/opinion/08wed2.html?_r=2

tional, and sexual intimidation in seafood-processing factories in Thailand, which export to the United States. The factories rely on trafficked workers to stay within the cost structure.

- When labor laws and regulations are not implemented, monitored, or enforced—when labor inspection is weak or nonexistent—workers are vulnerable to trafficking for forced labor and other forms of severe labor exploitation. When workers face retaliation for trying to exercise their rights or when workers lack access to avenues to address abuse, workers are vulnerable to human trafficking. This is the case for millions of domestic workers,³ agricultural workers, and immigrant workers in the United States and around the world who face extreme conditions of exploitation, including physical and sexual violence, confiscation of passports, illegal confinement, dangerous working conditions, and non-payment of wages. These workers are often explicitly excluded from the protection of labor laws, even when they are citizens or nationals of a country, and their work is often relegated to the informal economy where there is little labor inspection.

In 2011, a slave may not be in chains or shackles, but they are no freer. Slavery is not simply ownership of one person over another. Modern day slavery is much more subtle. Trafficking victims toil in factories that produce products that are exported to the United States, Europe, and other destinations. Trafficking victims harvest vegetables and process food that ends up on our dining room tables. They pick crops or mine minerals that are raw materials in the products we buy. They make the clothes and shoes we wear. They clean people's homes and take care of the young, elderly and sick. They are enslaved not only through physical restraint, but also through coercion, fear, and intimidation. In today's global economy, workers can be enslaved by threats of deportation, lack of viable alternatives, and especially debt.

While trafficking for labor exploitation has many facets, several major trends in our globalized world endanger workers, particularly those most at risk and most in need of protection. In developed economies like in the United States and Europe, we are seeing an increase in cases of trafficked immigrant teachers, nurses, construction, and service sector workers—all in these destination countries with valid visas, shining a light on the structural failures within our economic and employment systems that increase immigrant workers' vulnerability to severe forms of labor exploitation. Multinational corporations, employers, businesses, labor recruiters and others exploit these failures.

TRAFFICKING AS AN INHERENT VULNERABILITY IN TEMPORARY LABOR MIGRATION SCHEMES

Of particular concern are temporary labor migration schemes—sometimes referred to as guestworker, sponsorship or circular migration programs—that are increasingly being promoted by governments around the world to fill demand for cheap labor. In practice, these schemes create a legalized system and structure for employers to exploit workers, and increase workers' vulnerability to human trafficking and other forms of severe labor exploitation. Such programs have been plagued by a long history of abuses ranging from labor violations to visa fraud, debt bondage, involuntary servitude and trafficking for labor exploitation. This includes, among many others, the U.S. H-2 visa guestworker program, seasonal agricultural programs in Canada and Europe, and the “kafala” or sponsorship system in the Gulf Cooperation Council [GCC] countries.

The Alliance to End Slavery and Trafficking or ATEST, of which the Solidarity Center is a member, recently described the problem in a submission to the U.S. Department of Labor as follows:⁴

It is by now beyond dispute that temporary “guestworker” programs have long worked to the detriment both of the U.S. workers who are bypassed in favor of foreign workers, and for the foreign workers who fall prey to unscrupulous employers and their labor contractors.⁵ Of particular concern to

³The term “domestic worker” refers to a person who provides services—such as childcare, cooking, and cleaning—to or within a household.

⁴ATEST Comments on RIN 1205-AB58, Temporary Non-Agricultural Employment of H-2B Aliens in the United States [Employment and Training Administration, 20 CFR Part 655 and Wage and Hour Division, 29 CFR Part 503], May 17, 2011.

⁵Southern Poverty Law Center, 2007. “Close to Slavery: Guestworker Programs in the United States.” <http://www.splcenter.org/pdf/static/SPLCguestworker.pdf>; Closed and Criminal Cases Illustrate Instances of H-2B Workers Being Targets of Fraud and Abuse, GAO 10-1053; testimony submitted by members of the Guestworker Alliance for Dignity to the House Committee

Continued

our members, key aspects of the program lead to human rights violations such as debt peonage [or debt bondage], trafficking for labor exploitation and involuntary servitude, all forms of modern-day slavery. Guestworkers' vulnerability is greatly increased by the use of labor recruiters or foreign labor contractors who lure impoverished and desperate foreign workers to jobs within the United States described as plentiful and lucrative. The opportunity to work in the U.S. comes with an intolerably high price tag that includes inflated transportation, visa, border crossing and other costs, and "recruitment fees." Often, workers literally mortgage family properties or take out loans from loan sharks at exorbitant rates in order to meet these obligations. Companies within the United States claim no knowledge of their recruiters' actions and escape legal liability on these grounds. The recruiters themselves often remain beyond the reach of the U.S. legal system.

Once guestworkers arrive in the United States, the well-paid jobs that have been offered [often] do not materialize. Workers are left without work at all, or without work for the length of time promised them. Favorable terms and conditions of work offered in the home country are replaced by harsh conditions. Job contractors transfer workers, for a price, to other contractors. Workers who are dissatisfied with the jobs face overwhelming subtle and not-so-subtle pressures to acquiesce. Passports and other immigration and identity documents are confiscated [by employers] to ensure that workers do not run away. Families back home are threatened [by recruiters] with physical violence, as well as family bankruptcy due to loss of their investment in the worker. Workers who dare speak up for their rights face job loss, followed by deportation to their home countries and blacklisting. These factors lead workers to fall into myriad situations that rise to the level of a severe form of human trafficking, most notably coercion through abuse or threatened abuse of the law or legal process.

As noted in a recent ILO report, these conditions create a program that is ripe for human rights violations. Human trafficking abuses involving H-2B visas have been documented with frequency in recent media.

While the description above refers to the U.S. temporary guestworker program, the same scenario repeats itself around the world—for example, in Canada, Europe, the GCC, and around Asia. The common element is that these workers are trafficked within legal visa systems, fully documented, and that structural flaws within these programs allow workers to be trafficked.

Two other major common themes emerge:

1. The role of foreign labor recruiters in taking advantage of the lack of labor rights and inherent structural failures in these programs to exploit immigrant workers; and,
2. The need to provide greater protections to workers and opportunities for them to report abuses and advocate for their own rights.

THE ROLE OF LABOR RECRUITERS IN PROMOTING HUMAN TRAFFICKING

Foreign labor contractors or recruiters are increasingly relied upon by employers, businesses, and multi-national corporations to facilitate the movement of labor from one country to another. While many labor recruiters behave ethically and are engaged in lawful conduct, other recruiters are often complicit with or directly involved in trafficking of workers. Recruiters often charge exorbitant fees for their services, forcing workers into debt bondage, falsifying documents, and deceiving workers about their terms and conditions of work increasing vulnerability to human trafficking.

The incidence of known human trafficking cases involving foreign labor recruiters is increasing dramatically in the United States. The aforementioned Global Horizons case and the Signal workers case are just two recent examples. Many U.S.-based service providers state that regulating labor recruiters is one of the most important initiatives needed to combat human trafficking in the United States—both labor recruiters based in the U.S. and abroad. Employers rely on labor recruiters who have operations both in the U.S. and in foreign countries—as they use a system

on Oversight and Governmental Reform Domestic Policy Subcommittee, "The H-2B Program and Improving the Department of Labor's Enforcement of the Rights of Guestworkers," April 9, 2009; The Costs of Coercion: Global Report under the Follow Up to the ILO Declaration of the Fundamental Principles and Rights at Work, International Labor Organization, International Labor Conference, 98th Sess. 2009 Report I [B], http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_106230.pdf.

of subcontracting to find workers. The operations of such recruiters need to be regulated on both ends of the spectrum.

Stricter regulation of labor recruiters is needed to protect workers entering the United States from human trafficking and other abuses such as wage theft. Stronger legal frameworks will help to prevent unregulated actors from conspiring to fraudulently deceive workers about the terms and conditions of work.

To that end, ATEST has made a series of recommendations to include regulation of labor recruiters/foreign labor contractors in the 2011 Reauthorization of the Trafficking Victim Protection Act [TVPRA 2011]. Similar provisions were passed in the 2008 House of Representatives version of the TVPRA. We have learned even more since 2008 about the need for greater regulation of foreign labor recruiters. As such, ATEST recommends, with the support of a number of worker and immigrant rights groups in the United States, the following for inclusion in the 2011 TVPRA:

1. Elimination of Fees: No foreign labor contractor, or agent or employee of a foreign labor contractor, should be allowed to assess any fee [including visa fees, processing fees, transportation fees, legal expenses, placement fees, and other costs] to a worker for any foreign labor contracting activity. Such costs or fees may be borne by the employer, but these fees cannot be passed along to the worker. This is one of the most crucial elements to eliminate debt bondage for immigrant workers.

2. Disclosure: Foreign labor contractors and employers must be required to fully disclose to the worker in writing in English and in the language of the worker being recruited, all of the terms and conditions of their work. This includes:

- The identity of the employer and the identity of the person conducting the recruiting on behalf of the employer, including any subcontractor or agent involved in such recruiting.

- A signed copy of the work contract, including all assurances and terms and conditions of employment, from the prospective employer for whom the worker is being recruited, including the level of compensation to be paid, the place and period of employment, a description of the type and nature of employment activities, any withholdings or deductions from compensation and any penalties for terminating employment.

- The type of visa under which the foreign worker is to be employed, the length of time the visa is valid and the terms and conditions under which this visa will be renewed with a clear statement of whether the employer will secure renewal of this visa or if renewal must be obtained by the worker and any expenses associated with securing or renewing the visa.

- An itemized list of any costs or expenses to be charged to the worker. Including but not limited to: the costs of housing or accommodation, transportation to and from the worksite, meals, medical examinations, healthcare or safety equipment costs, and any other costs, expenses or deductions to be charged the worker.

- A statement describing the protections afforded the worker by U.S laws and regulations, including protections in the Trafficking Victims Protection Act of 2000 [Division A of the Public Law 106–486], as well as relevant information about the procedure for filing a complaint and the telephone numbers for the Department of Labor hotline and the National Human Trafficking Resource Center hotline number.

3. Registration: A Department of Labor administered process for foreign labor contractors to obtain a certificate of registration. Employers must be required to use only foreign labor contractors who are properly registered under this system.

4. Enforcement: A Department of Labor established administrative process for receiving, investigating, and adjudicating complaints against the compliance of either employers or foreign labor contractors. Criminal and civil rights of action for workers themselves are also key to preventing trafficking.

5. Accountability: Workers must be protected from retaliation and employers must be held accountable for the actions of foreign labor contractors that they hire.

WORKER RIGHTS AS A MEANS TO PREVENT TRAFFICKING FOR LABOR EXPLOITATION

As described earlier, immigrant workers must be included fully in the protection of labor laws and have access to mechanisms to exercise their rights and report abuses to reduce their vulnerability to trafficking. Threats of retaliation, deportation, and visas being tied to a particular employer all increase the incidence of trafficking for labor exploitation. For this reason, ATEST also recommends a provision for the 2011 TVPRA that provide temporary immigration relief to workers who are whistleblowers of severe labor exploitation. There have been a number of human trafficking cases recently in the United States where workers who raised the alarm about severe abuse by employers have initially been threatened with deportation as a way to keep them quiet. These workers have had to remain in the United States in an undocumented status in order to stay in the country to pursue their cases

against the abusive employers. After many years, these same workers have been certified as trafficking victims and receive “T” visas, but had to struggle for many years without status. Examples of this include the Global Horizons case and a group of Indian workers known in the media as the Signal Workers. ATEST recommends that a provision be included in the TVPRA 2011 to give trafficked workers like these access to temporary immigration relief in the United States while they pursue claims here, even if they are not initially identified as trafficking victims.

TRAFFICKING IN SUPPLY CHAINS

Another major trend in the global economy is the use of trafficking, forced labor, and slavery victims all along supply chains. It is difficult to quantify the exact number of trafficking victims who work in global supply chains but, as those supply chains reach down to smaller and smaller suppliers, the chances increase that the labor force includes trafficked people.

- When employers [buyers and multinational corporations [MNCs]] demand cheap or unrealistic pricing structures, they should not be surprised to find severe labor abuses, including slavery, in their supply chains.

- Similarly, when employers contract out or hire unregulated subcontracted suppliers, they should not be surprised to find that they have trafficking victims in their production lines

- When employers refuse to enforce or claim that it is too difficult to monitor adherence to core labor standards in their supply chains, they will find forced labor, debt bondage, and other severe forms of labor exploitation there.

The Solidarity Center believes that the most effective way to eliminate forced labor, debt bondage and other forms of slavery in supply chains is by empowering workers to have a voice in their workplace, and supporting their right to organize and join unions. We believe that governments, MNCs, employers, labor recruiters and others must adhere to core labor standards and respect workers’ human and labor rights in order to affect change in practices all along supply chains.

The existence of MNC codes of conduct have failed to curtail trafficking practices in any number of sectors including garment/textile, agriculture, and seafood processing. There is no easy solution to this problem, but we know that a key deterrent is the ability of unions and labor rights organizations to shine a light on these practices through on-the-ground investigations. We believe it is important that the Congress and Administration support such monitoring efforts, and the efforts of workers to monitor their own workplaces. Ultimately, workers and trade unions must be empowered to monitor supply chains because history shows that abuses in the workplace only end when workers have the power to ensure that their rights in both International Labor Organization [ILO] conventions and national laws are respected.

Governments must also play a major role in eliminating slavery in supply chains. Examples abound of governments around the world reluctance to hold employers accountable for trafficking in their workplaces. Even when trafficking for labor exploitation is addressed, the labor recruiter is blamed and not the employer who perpetrates the exploitation.

This lack of political will translates into ridiculously few cases of human trafficking for forced labor or other forms of severe labor exploitation from being prosecuted around the world. When cases are prosecuted, they often result in small fines and no jail time for the perpetrators—barely a deterrent for exploitative employers. The U.S. Department of Justice is playing an important leadership role globally, by prosecuting high-profile cases, such as the Global Horizons case, that may educate other governments of trafficking of temporary workers and within supply chains. The Office to Monitor and Combat Trafficking in Persons [G/TIP] at the State Department also plays an important role through its annual Trafficking in Persons Report in highlighting the lack of [but need for] prosecutions for forced labor and other forms of trafficking for labor exploitation in countries around the world.

The U.S. government, however, must do more to ensure that U.S. corporations are held accountable for their practices abroad. We must increase government scrutiny of imports and exports to ensure goods made by slave labor are not allowed in the U.S. marketplace. To this end, the State Department needs to put more emphasis on site visits overseas to suspect industries. To do this, it must expand the number of labor officers and attachés in the field, something that the Congress has called for generally but which the Department has yet to act upon in any meaningful way.

In addition, the Department of Homeland Security must review and rework the role of Immigration and Customs Enforcement [ICE] in overseas inspections. Currently, ICE must notify foreign governments of their intent to inspect workplaces that export products to the United States. Such notification results in the “cleans-

ing” of these workplaces to remove any signs of trafficking or forced labor. U.S. law does not allow evidence collected by unions or non-governmental sources to be the basis for restricting the importation of products made by slave labor. This must be reformed.

CONCLUSION

Secretary of State Hillary Clinton said, in the opening of the 2010 TIP Report, “Ending this global scourge is an important policy priority for the United States . . . and no one should claim immunity from its reach or from the responsibility to confront it.”

We agree. It is not an oversimplification to say that if we end worker exploitation, we can end human trafficking. As the International Labor Organization [ILO] has noted, “Where labor standards are rigorously adhered to, workers are well unionized and labor laws are monitored and enforced—for all workers, indigenous or migrant—the demand for trafficked people and services is likely to be low.”

Thank you, again, for the opportunity to testify and for your help in combating global trafficking and supporting the rights of workers everywhere. I welcome your questions.

PREPARED STATEMENT OF JULIA ORMOND, FOUNDER AND PRESIDENT, THE ALLIANCE
TO STOP SLAVERY AND END TRAFFICKING

Mr. Chairman, distinguished Members of the Committee and staff, good morning. Initially, I engaged around the issue of slavery and human trafficking shocked and spurred into action by reports of sex-trafficking. To me, nothing then seemed more heinous than the repeated rape and violence endured by its victims.

At first, I met in California with survivors representing a wide variety of the faces of slavery. Other travels around the world took me to Russia, Ghana, Thailand, Cambodia, India, and Europe. These trips provided me with a creepy and shocking perspective of how slavery invades not merely the lives of its victims, but my own life as well—how I am unwittingly connected to it; ultimately connected to its systematic violence. People often ask me “where in the world is it worst?” My answer is: “in my own home”

It is simply not possible to sit easily in Los Angeles and forget the enslaved children I have met. Children from whom I have walked away, and left to an uncertain fate.

What keeps me up at night—what haunts me—are the victim’s stories. I will never forget the story of the girl who crawled out of an eight floor window for fear of her life in sex slavery. But I can equally never forget the child enslaved in the fishing industry who jumped ship into the Thai sea to float on a barrel for two days and a night before being rescued because that was his safest option, or the child who was chained, whipped and scarred for life while maybe working on our carpets. Or the child soldier forced to burn his village, kill his mother and rape his sister for someone else’s war. Or the stories of the artisanal miners of gold who begin a two-year life expectancies, just to provide me with a trinket. Or the enslaved garment worker who make my clothing. Or footage of Mayan agricultural slaves in Florida picking my tomatoes.

Just as those forced into sex slavery, they all deserve our compassion. They all deserve our attention. And they all deserve our commitment to end all forms of slavery and human trafficking.

In 2007 I founded the Alliance to Stop Slavery and End Trafficking, otherwise known as ASSET. ASSET is an advocacy organization, dedicated to combating slavery and trafficking by amplifying the voice of the victim, and supporting systemic solutions.

I have come to define “enslavement” as:

“When one person completely controls another person, uses violence or violent threat to maintain that control, exploits them economically and pays them effectively nothing. Trafficking is a process of enslaving someone.”

Under the tenure of Ambassador CdeBaca, the 2010 Annual Report of the U.S. State Department’s Office to Monitor and Combat Trafficking in Persons notes that more people are trafficked into forced labor than commercial sex. Yet ask any member of the public what proportion of this issue is sex-trafficking, and the usual response is about 80%. To the contrary, the International Labor Organization has recently stated that for every one person forced into the sex trade, nine people around the world are forced to work.

And among labor trafficking victims, the practice is most prevalent in the agriculture and mining industries. The forced labor of these victims taints many of the products that we purchase and rely on every day, such as coffee, chocolate, clothing, micro-chips, electronics, even the brake pads in our cars. To quote the TIP Report, “it is impossible to get dressed, drive to work, talk on the phone, or eat a meal without touching products tainted by forced labor.”

The United Nations has documented the shift from trafficking in weapons and drugs, to trafficking in people. And now specifically, the trafficking of children. The U.N. Office on Drugs and Crime has cited that in Europe, the profits from human trafficking has overtaken the profits in the trafficking of drugs. Yet the United States government spends more in ONE DAY fighting the war on drugs, than it spends in an entire year fighting the trafficking of people.

We all have a role to play in supporting solutions—and there are many solutions. Every single place I travelled, solutions await the resources to scale and meet a drastic need.

In order to resource these solutions, however, it is vital to get the story straight, and media can play a crucial role. Sex will always sell, whether the story is good or bad. But we need the media to cover the issue fairly, proportionately. Media outlets must set aside deliberate resistance of losing advertising revenue, and instead articulate how businesses can use their influence over supply chains to recreate the

map, to illuminate the worst areas of poverty in the world, where slavery and trafficking take hold.

As advocates, we need to do a better job articulating to the public the enormous challenges that today's complex supply chains present to business. We need to articulate that the CEO is most often not the criminal. This is criminal activity tainting their supply chains, most often around raw materials, just as shoplifting is criminal activity occurring at the other end of the supply chain, at the point of purchase.

Only by rediscovering the supply chain, and influencing each step of it by encouraging best practices, can we implement real solutions; can the NGO work with the CEO. A supply chain without a policy of best practices is like a computer without virus protection—you will most likely become infected with a virus or tainted by labor violations.

We need companies to come to the table and collaborate in finding better solutions, to work with governments and the NGO community, who can offer victims safety and rehabilitation, and can assist vulnerable communities. We cannot accurately and efficiently access victims without the assistance of the companies that influence infected supply chains.

I think one of the most crucial pieces that I have learnt is that this is a verification of process—whether you are growing, picking, selling tomatoes out of Florida, or implementing Fair Trade's exemplary standards in the developing worlds small farms—you will find slavery. The point is that the better your practices, the less you will find. And the better your practices, the better your response.

ASSET's solution was to be primary sponsor of the California Transparency in Supply Chains Act of 2010, authored by Senator Darrell Steinberg and signed into law by Governor Schwarzenegger in September 2010.

This law came into effect in January 2011, and it requires retailers and manufacturers operating in California with over \$100 million in worldwide gross receipts to publicly disclose their efforts to eradicate slavery and human trafficking from their supply chains. The law will apply to just over 3,000 companies—around 4% of California's companies, who represent approximately 87% of economic activity in the state.

This new law is one small step in a long journey forged by others that ASSET has joined. I hope if it is applied well, that it will represent a watershed in the sharing of knowledge, and will enable active consumer, investor and other stake-holder engagement, will encourage a pooling of resources and will get us closer to concrete, measurable results.

The California Transparency in Supply Chains Act will for the first time enable consumers to chose to support businesses that are creating best practices, using their purchasing power to encourage them to bring their expertise and knowledge of supply chains into the equation. Investors can influence corporate governance and social responsibility practices, providing incentives to companies to elevate human rights and place them at the heart of their strategy.

In one sweep it will educate companies unaware of a possible problem not just of their own potential vulnerability, but also the devastating impact of using company influence to drive profit up by forcing the prices of raw materials down, to a level where labor violations and criminal activity and suicide are the outcome for the raw material work-force. For today's enslaved.

It will create an environment where those companies already doing the right thing, can more robustly and publically turn it into part of their brand identity. And for the next step in the process to occur; Congress should enact federal legislation that will empower consumers with information disclosing the presence of slavery and trafficking in the corporate supply chain.

Thank you for listening, and I look forward to your questions.



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